

UNITED STATES OF AMERICA) CAUSE NO. 3:04-CR-240-P
(
vs.)
(NOVEMBER 11, 12, 14, 2008
(DALLAS, TEXAS
HOLY LAND FOUNDATION, ET AL (9:00 A.M.

STATEMENT OF FACTS

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INDEX**Closing Arguments**

Closing Arguments	Page
MR. WESTFALL	4
By Ms. Cadeddu	20
MR. DRATEL	43
MS. CADEDDU	79
MS. MORENO	80
By Mr. Jacks	139
JURY NOTES THAT WERE ADDRESSED	199

1 THE COURT: Ladies and gentlemen of the jury, good
2 morning. We are ready to proceed.

3 Mr. Westfall?

4 MR. WESTFALL: May it please the Court, Your Honor.

5 Good morning, ladies and gentlemen. I want to join
6 everyone else who has thanked you for your service. This has
7 been a long trial, six, seven, eight weeks, and that is long
8 for any trial. It has also been a difficult trial. And, you
9 know, it is fitting that we are wrapping this up on Veteran's
10 Day, isn't it, where we honor, seek to honor the generations
11 of soldiers who have fought for these rights that we have in
12 this nation, who died for this thing we call the Constitution
13 of the United States of America? And it is a case like this
14 that puts that document to its ultimate test.

15 And I want you to know that I recognize the burden that
16 you all are about to carry and the power that you are about to
17 have over Abdul Odeh and the lives of so many people. So
18 thank you.

19 I want to talk to you today about some legal concepts as
20 they apply to Abdul, and then we will go on from there. I
21 have a PowerPoint presentation I want to turn on.

22 This is from the Court's instructions. It is four legal
23 concepts I want to talk to you about. The first one is this
24 multiple counts and multiple defendants.

25 In our nation each person who is charged with an offense,

1 whether they are charged individually or together, is entitled
2 to individual consideration of whether they are guilty or not
3 guilty of the offense, and that is what this instruction
4 really brings home. Everybody is entitled to individual
5 consideration.

6 Proof beyond a reasonable doubt, you have heard this
7 phrase several times now, but I want to talk to you a little
8 bit about the definition of it. Proof beyond a reasonable
9 doubt is proof of such a convincing character that you would
10 be willing to rely upon it and act upon it without hesitation
11 in the most important of your own affairs. So think about
12 that and let that sink in a little bit.

13 What kind of proof would you want in the most important
14 of your own personal affairs that would cause you to not only
15 rely upon it, but take some action and do it without
16 hesitation? If we were going to put a parent in a
17 long-term-care home or send our children to daycare, those are
18 the most important decisions in our lives, and the type of
19 information that we would want to make that decision without
20 hesitation is the type of proof that is required in the
21 criminal courts of the United States.

22 The third concept is the conspiracy. Okay? And what it
23 takes to be in the conspiracy. Now, Abdul is charged in three
24 counts in this indictment. Count 1, Count 11, and Count 22.
25 Those are the three conspiracy counts. Okay? Count 1 is

1 conspiracy to give material support after October 8th of 1997.
2 Count 11 is conspiracy to provide funds to an SDT, Hamas,
3 after January 25th of 1995. And then Count No. 22 is the
4 money laundering count.

5 Now, in order to be in a conspiracy, and this exact
6 language is in those same conspiracy counts, or language
7 virtually identical to it is in all the counts, plus the
8 definition of conspiracy, that is in the charge also, and
9 basically what it tells us is that you can't enter a
10 conspiracy without knowing about it. You can't further an
11 unlawful purpose that you don't even know about. And that is
12 basically just fairness. You can't further an unlawful
13 purpose that you don't even know about.

14 Finally, association alone is not enough. Now, Mr. Jonas
15 when he was speaking with you all yesterday, and I don't know
16 that he used it in this context, but he mentioned the phrase
17 "Walks like a duck, quacks like a duck." When we start
18 talking like that, we start really running the risk of guilt
19 by association, and guilt by association is one of those
20 things that in the United States we try to avoid, because that
21 results in innocent people going to the penitentiary. And it
22 is protected by the First Amendment and it is protected by our
23 right to a fair trial, and the Judge points that out in the
24 instructions.

25 Now, this here is Demonstrative No. 15, Government's

1 Demonstrative No. 15, and Mr. Jonas didn't talk about it
2 yesterday but you all may recognize it from being talked about
3 earlier in the trial. And this demonstrative I like to call
4 the demonstrative of all the things Odeh never belonged to or
5 knew about. You notice the name down there at the bottom just
6 swirling around on the same sheet as Marzook, who we know
7 didn't have a financial transaction with the Occupied Land
8 Fund or the Holy Land Foundation after like 1992?

9 Abdul Odeh started working with the Holy Land Foundation,
10 not the Occupied Land Fund, but the Holy Land Foundation on
11 February 1st, 1994. So you look at this, Abdul Odeh is not on
12 the Palestine Committee. Abdul Odeh never knew Marzook.
13 Abdul Odeh never had a phone conversation with Marzook. Abdul
14 Odeh never had a financial relationship with Marzook. Abdul
15 Odeh wasn't on the board of the IAP, the HLF, or the UASR. He
16 wasn't involved in the Muslim Brotherhood.

17 See all the documents in the lower right hand corner, all
18 those Elbarasse documents and Ashqar documents that support
19 this demonstrative? Abdul Odeh is not in any of those. He is
20 not -- He never went to Palestine, never called Palestine,
21 never dealt with any organization in Palestine, never dealt
22 with a zakat committee in Palestine, and I mean there has
23 never been any evidence that he even knew that the Holy Land
24 Foundation used zakat committees, let alone who was on the
25 zakat committees.

1 That is where Abdul Odeh was on February 1st, 1994 when
2 he entered into this agreement with the Holy Land Foundation
3 as to what he would do. And if we are looking for state of
4 mind and what his state of mind was when he started with the
5 Holy Land Foundation, this is it. He didn't know any of this
6 back story of what is going on in '88, '89, '90. When he came
7 to work with the Holy Land Foundation, he came to work for the
8 Holy Land Foundation for this specific purpose, and February
9 1st of 1994 is where his timeline starts.

10 Now, from Odeh's position this right here was the chain
11 of command, not Marzook, not Sheikh Yassin. This was the
12 chain of command. And it says so in his contract. He is
13 supposed to answer to El-Mezain. And we know that, you know,
14 he calls Shukri Mr. Shukri and he had to answer also to Akram
15 Mishal. If you look at his personnel file, which I believe is
16 Defendants No. 207, Akram Mishal is writing letters of
17 reprimand to him. Haitham Maghawri is deciding whether or not
18 he gets raises. This is what Abdul Odeh -- this is who he
19 reported to and this is what the Holy Land Foundation looked
20 like to him.

21 And he, along with several other office managers, this is
22 what the Holy Land Foundation did in Abdul Odeh's experience.
23 There was no connection with the IAP. You look down the lower
24 right hand corner. He would man the booth or take speakers to
25 the IAP conventions, and then the money that was raised he

1 would send back to headquarters. Headquarters would send him
2 orphan applications for martyrs, for whatever, and he would
3 send back the filled out orphan applications. This is what
4 Abdul Odeh did.

5 And he also did relief missions as we know. And not just
6 in 2001 or something like that. In 1996 he goes to Egypt for
7 that relief mission. In 1997 he goes to Jordan two times for
8 those relief missions. And in 1999 he goes to Kosovo for that
9 relief mission, in addition to opening the pantry in New
10 Jersey. That was Odeh's state of mind.

11 Now, over the course of the six weeks we haven't heard
12 very much about Abdul Odeh, I am going to kind of sum up what
13 we have heard. There was out of ten years of FISA
14 surveillance and they brought you four conversations where
15 Odeh is a party. Three of those were from early 1995 and one
16 was from 1999. And I want to kind of go through those with
17 you. All right?

18 January 22nd, 1995, this is the "beautiful operation"
19 phone call. Okay? And this here is the reason Abdul Odeh is
20 sitting in that seat over there, because of this phone call.
21 That is the one piece of evidence we have heard the most
22 about, and I addressed this in opening statement and talked to
23 you all about the fact that this was, you know, as horrible as
24 the deal was, it involved Israeli soldiers, and Abdul Odeh is
25 in New Jersey and he hears about it on the radio. You can

1 hear the radio in the phone call where, you know, the
2 Palestinian Islamic Jihad, according to Mr. Levitt, Doctor
3 Levitt's demonstrative, is the one that claimed responsibility
4 for it.

5 On the radio that Odeh is listening to, I think they say
6 something about Hamas, but it is neither here nor there. This
7 is not -- This isn't about that. Okay? And, you know, Levitt
8 knows that. You remember when he testified on direct
9 examination, he said there may have been some soldiers in
10 there, but then I cross examined him and the government of
11 Israel of course published statistics and there were 21
12 people, 21 soldiers out of 22 people who were killed. Now, it
13 is still 21 people killed, but if we are trying to get to the
14 truth of what on January 22nd of 1995 is Odeh's state of mind,
15 Levitt knows that the fact that there were Israeli soldiers
16 makes a difference. He knows that and that is why he fudged.

17 The next call, February 27th, 1995, is the one where Odeh
18 is talking with El-Mezain about splitting the cash transaction
19 so he wouldn't have to fill out one of those cash reports at
20 the bank. That was put into evidence and then never spoke
21 about again, including yesterday during closing argument.
22 What this really brings home is just how much Holy Land -- how
23 much flak they were taking all the way back to 1993.

24 Holy Land had enemies in the press. There is no doubt
25 about that. And the reason for that, I mean, they just -- You

1 read their stuff. They never stopped talking about the
2 occupation. And the giving of charity in Palestine is so
3 political and they never stopped talking about the occupation,
4 and they never stopped taking flak.

5 The April 19, 1995 phone call is the one about Oklahoma
6 City, and this one was actually discussed yesterday. The
7 implication is that this Oklahoma City thing was just a ruse,
8 just a cover, something to support this, you know, "We used to
9 give the Islamists \$100,000 and give everyone else \$5,000 and
10 Odeh is a part of that." Right?

11 Well, I want you all to see something. See right here?
12 This is El-Mezain Wiretap No. 2. Okay? Now, you see that
13 line right there? That line right there means the text of the
14 call has been redacted by the Government. Okay? And you will
15 see that line in a lot of maces when you start looking at this
16 evidence. That means that part of it has been removed before
17 it was offered for your consideration.

18 And you remember how hard they fought against me putting
19 in photographs, me putting in videotapes? I admitted most of
20 the rest of the call and it is Defense No. 1350. Now take a
21 look at that, and let me just read it to you. "It is like --
22 We are here." This stuff is cut out. "It is like -- we are
23 here. We are an American organization and we are not supposed
24 to only send stuff over there but help over here as well."
25 And look at the last line. "I mean, just to improve things

1 over here in the country."

2 Now, what else did Odeh do to try to improve things over
3 here in this country? In 1999 he set up a pantry that was
4 feeding 200 families up in New Jersey; poor people in New
5 Jersey and he is feeding them himself. That is not a ruse.
6 That is a man who does charity work.

7 Finally in 1999, we have -- the only time we have a
8 conversation where anybody is speaking about Hamas with Abdul
9 Odeh, and that is when Shukri is telling Abdul, "Don't take
10 Deeb Anees' money because he speaks for Samah and her
11 sisters." Okay? That is the only time there is ever a
12 mention of Hamas with Odeh.

13 And I want to talk to you just a little bit about that,
14 because if you recall HLF Search No. 179, which Agent Miranda
15 put in without any explanation, if you just look at that, then
16 it would lead you to believe that in 1999 Deeb Anees actually
17 raised almost \$7,000 for the Holy Land Foundation in this same
18 year that Odeh and Shukri are having that conversation.
19 Without explanation that is how it was put in.

20 But then we know, from cross examination, from Holy Land
21 Foundation records that the total there was made up of \$50
22 payments, \$100 payments that had been trickling in from 1996,
23 which is the last time from the appearance of those records
24 that Deeb Anees ever spoke at a Holy Land Foundation -- that
25 Holy Land Foundation raised funds with Deeb Anees.

1 The evidence. Now, an undated picture from a newspaper,
2 that is one Mr. Jonas spoke about yesterday. A Letter from
3 Sultan Mahmoud and the "beautiful operation" phone call.
4 Think about what we have done for the last seven weeks, and
5 those three things--the newspaper picture, the "beautiful
6 operation phone call, and the letter from this silly Sultan
7 Mahmoud with no return address and a \$25 money order that
8 apparently we should have thrown away, those three things have
9 been the things that the Government has relied on most to try
10 to show that Abdul Odeh supported Hamas.

11 There is other stuff here. Some of it hasn't been
12 discussed since it was put in--the eight-by-ten 1990 poster
13 picture of Sheikh Yassin, three years imprisonment and such,
14 video from approximately 1990, a book from late '87 to early
15 '88, that is the jihadist school book. Okay?

16 Late '87 to early '88 publication. That book was
17 published before the Hamas charter was published, and if it
18 was late '87, in all likelihood that book was published before
19 Hamas was even established. And the book talks about a guy
20 who lived in the '20s and '30s and fought against the British.
21 That book is not even about Hamas.

22 The book from 1991 is about -- I mean, the title of it is
23 actually The Intifada in the Hebrew Press and then the
24 subtitle, Study of Hamas. This is the Hamas paraphernalia.

25 And the financial statement from October 1996, which has

1 on behalf of the Holy Land Foundation Odeh buying Deeb Anees
2 lunch when he was around in 1996 giving the speeches.

3 Now, a reminder to pay his orphan dues. And we did
4 finally hear about the orphan in this trial Yehia Ayyash.
5 This guy Yehia Ayyash over in Palestine had two sons. The
6 youngest one was weeks old when he was killed, and that was
7 Yehia Yehia Ayyash. And we never denied that through the Holy
8 Land Foundation Abdul Odeh, at the rate of \$50 a month,
9 sponsored this child.

10 THE COURT: You have used 20 minutes, counsel.

11 MR. WESTFALL: Thank you, Your Honor.

12 So I spoke with Avi about that, if you recall, and Avi,
13 you know, despite my best attempts Avi denied that that was
14 Yehia Ayyash. Why would he do that? You know, because he is
15 talking about special segments, and so I want to talk to him
16 about this child. He denied it was Yehia Ayyash. Kind of
17 stopped the conversation right there.

18 I will tell you why he did that. Because he saw over on
19 the right hand side of the page where this child Yehia Ayyash
20 received no more nor less than any other child either, on this
21 page or on all the other pages of the 700 some odd orphans
22 that I had handed him to look and asked him, "Please show me
23 the special segments in these documents."

24 He had spent the morning from memory looking at postcards
25 and posters and reciting intimate details about all of the

1 Hamas martyrs in those posters and those postcards and those
2 temporary internet files, which apparently he knows what they
3 were. I hand him 700 names and say, "Just pick one out."
4 Won't do it. Refused to do it.

5 And you think about his definition of a martyr and his
6 definition of a prisoner and his definition of special
7 segments, and it tells you why. Okay. He defines a martyr
8 as, No. 1, a Hamas martyr; No. 2, somebody who is either
9 killed in an operation or a suicide bombing. He defines the
10 family of a prisoner as someone who is a Hamas person in
11 prison for a long time for a terrorist offense, and of course
12 you are not going to be able to find those folks. All right?
13 This child he wouldn't even recognize.

14 And the problem with him recognizing this child and
15 looking at the numbers on this page is that it shows that the
16 Holy Land Foundation treated all these kids the same; not that
17 the Holy Land Foundation gave special significance to these
18 special segments that Avi is talking about. Everyone was
19 treated the same. And that cuts against his theory to the
20 point where he was willing to deny that that is the child of
21 Yehia Ayyash.

22 This case is all about state of mind. All right? And I
23 showed you lots of these pictures in opening statement. I am
24 only going to show you one in closing argument. When Abdul
25 Odeh -- And there is -- By the way, there is over 130 of these

1 now in evidence under that 203.16. Okay? When Abdul Odeh
2 thought of a Palestinian child, this is what Abdul Odeh
3 thought about up there in New Jersey. Can you imagine -- Wafa
4 Yaish in Dallas never heard talk of Hamas or the Palestine
5 Committee. I mean, he is in the same office as Shukri. Can
6 you imagine Odeh, who only came to Dallas about twice a year
7 according to Mr. Yaish? When he thought of a Palestinian
8 child, this is what he thought about because this is what the
9 orphan applications looked like. And it didn't matter if it
10 was A martyr. It didn't matter if it was a prisoner. It
11 didn't matter if the father died of an illness, of an
12 accident. They were kids who needed support. And that is
13 what Abdul Odeh did.

14 When Abdul Odeh thought of a summer camp, this is what
15 Abdul Odeh thought of, because these are the pictures that the
16 Holy Land Foundation had. These are the pictures that
17 Mr. Yaish testified they passed out at staff meetings. And
18 these are the pictures of the projects that Abdul Odeh was
19 asked to try to raise money for.

20 When Abdul Odeh thought of a relief mission, this is what
21 he thought about, because this was Abdul Odeh in Egypt taking
22 two trucks of relief or two trucks and a long trailer with the
23 U.N., by the way.

24 And this is what he thought about when he thought about
25 needy people, because these are the folks that he saw with his

1 own eyes and helped with his own hands in Egypt in 1996. And
2 there is -- I think it is Defendants' No. 1091 is a whole
3 stack of signature forms like this. When Abdul Odeh thought
4 of food packages, this is what he thought about, because in
5 1997 he saw this with his own eyes and did this with his own
6 hands in Jordan on two different occasions at U.N. refugee
7 camps.

8 When Odeh thought of a relief mission, emergency relief
9 mission to refugees, this is what he thought about, because
10 this is what he saw with his own eyes and this is what he did
11 with his own hands in Kosovo in 1999 when they carried a
12 thousand tons of flour, a mobile bakery, and two ambulances to
13 Kosovo to help the refugees. This is what he thinks about.

14 And when he thinks about feeding the people in the United
15 States, he thinks about the pantry that he alone opened in New
16 Jersey.

17 He wasn't in the business of brainwashing children. Look
18 at those children.

19 You know, before I sit down, I want to talk to you just a
20 little bit about this, and I don't know if you recall when I
21 cross examined Mr. Levitt and got these numbers down, these
22 are the numbers I got from Matt Levitt during my cross
23 examination. He said the total Hamas budget, according to
24 Israeli figures, is \$56 million to \$76.5 million; U.S.
25 figures, \$42.5 million to \$62.5 million; total from all other

1 sources, \$1.3 billion. So if you look at the Hamas budget as
2 a percentage, it is 3.2 percent to 5.9 percent of the total
3 money coming into Palestine is this Hamas budget.

4 This cynical craven argument about winning the hearts and
5 minds, first of all, at most six percent of the budget, is
6 that going to win the hearts and minds, is that going to be
7 enough money to win the hearts and minds?

8 Second of all, you know, the Palestinian people aren't
9 stupid. Do you think they are going to sign up to brainwash
10 their kids for a little bit of money? You think they are
11 going to sign up to strap bombs to themselves for a little bit
12 of money? Come on. They are still human beings. It is
13 insulting. It is an insulting argument.

14 You know, Hamas doesn't exploit -- I would suggest to
15 you, Hamas doesn't exploit the need of the Palestinian people.
16 The need of the Palestinian people was there before Hamas.
17 After Hamas the need of the Palestinian people has been there.
18 They don't want to exploit that need.

19 What Hamas does is capitalizes on the anger of the
20 Palestinian people, and that anger is caused by a thing that
21 we call the occupation. And that isn't why Abdul Odeh put on
22 his pants every day and went to work. That anger is the
23 reason why he said what he said on January 27th of 1995, but
24 that anger is not why he did his job.

25 I asked you all in opening statement, is it even possible

1 to give charity out of hatred? Is such a thing possible?
2 Certainly in the Bible you don't see anything like that. Is
3 it possible to give charity, to give something out of love out
4 of hatred? I don't think it is.

5 You think of those Azzam videos, you think of those old
6 OLF videos and the economic jihad and whatnot. What we are
7 talking about there, what those guys are talking about is
8 clothes for the Mujahideen and stuff like that.

9 By February 1st of 1994, what the Holy Land Foundation
10 did and when Odeh walks on the stage, the Holy Land Foundation
11 is opening hospitals, the Holy Land Foundation is sending
12 money to support clinics, the Holy Land Foundation is
13 supporting over 1,000 over 2,000 orphans, the Holy Land
14 Foundation is buying scholarships for needy children and
15 sending food over for the holidays, sending meat to people who
16 eat meat, you know, once or twice a year. That is what the
17 Holy Land Foundation is doing.

18 You look at his booth that he sat at, and the Kosovo
19 project is there and the project where they are building the
20 infrastructure, the new electric transformers in Lebanon.
21 That picture is on there. These are the things that the Holy
22 Land Foundation did and these are the things that Abdul Odeh
23 did.

24 And finally, that is Abdul Odeh right there. Look at his
25 face. This is in Kosovo. Does that look like he is putting

1 on an act or a ruse? No. Look at his face. That is a man
2 who is giving of himself, and that is what Abdul Odeh did.
3 That is what he did.

4 I can't say anything more to you other than Abdul Odeh is
5 so not guilty of this. And I once again, I honor the power
6 that you all are about to have, and we are in a position, you
7 are in a position to change and affect a lot of lives. And I
8 thank you so much for your service and I thank you for
9 listening to me this morning, you all.

10 THE COURT: Thank you, Mr. Westfall.

11 Ms. Cadeddu?

12 MS. CADEDDU: Thank you, Your Honor.

13 Your Honor, counsel, ladies and gentlemen of the jury.
14 Well, here we are six or eight weeks after we started, and we
15 have seen the change of the seasons from summer to fall,
16 although in here it is always winter, apparently. We have
17 suffered together through the flu and through coughing.

18 We have listened to lots and lots and lots of evidence
19 and watched lots of videos, and my job today is to try to tie
20 that all together for you and explain to you how I view this
21 evidence, and how I believe you should as well.

22 When the indictment was first read at the beginning of
23 this trial and the Prosecution made its opening statement, you
24 heard some things about Mufid Abdulqader that you probably
25 remember. One of those was that he was a top fundraiser for

1 the Holy Land Foundation. That is in the indictment and I
2 think that was in opening statements as well. You heard that
3 he was in a band, and that that band praised Hamas and acted
4 out skits that depicted the killing of Jews. You heard the
5 charge that he conspired with the other gentlemen here to
6 support Hamas, a designated terrorist organization. And you
7 heard from Ms. Shapiro in her opening statements that the head
8 of Hamas is Khalid Mishal, who is Mr. Abdulqader's half
9 brother.

10 Now, when you heard all of those things you probably
11 thought that you were going to see certain kinds of evidence.
12 You might have thought that you would see evidence that Mr.
13 Abdulqader raised more money than anybody else at the Holy
14 Land Foundation; that he was in fact the top fundraiser. I am
15 sure you thought you would see evidence that he had something
16 to do with where Holy Land's money went, participated in
17 meetings or made decisions or signed checks, some of that sort
18 of evidence. You probably also thought that because Ms.
19 Shapiro mentioned his relationship to his half brother in
20 opening, that you were going to hear something about how he
21 talked to his brother or had some sort of communications with
22 his brother that had something to do with this case. And if
23 you thought you would see all those things, you were wrong, as
24 you know, because we haven't seen any of that in this case.

25 Now, having sat here for the last two months, you know

1 that there isn't any of that kind of evidence, but what you
2 have learned during the past two months is Mufid Abdulqader is
3 an American citizen who worked full time beginning in 1995 and
4 1996 for the City of Dallas Public Works Department as a
5 engineer. You heard and have learned that in his free time he
6 volunteered not just for the Holy Land Foundation, but for
7 organizations around Dallas and elsewhere.

8 You know that most of his volunteer fundraising for the
9 Holy Land Foundation came during the Muslim holidays of
10 Ramadan and Eid. Those are times typically where there is a
11 loft O fundraising to be done and the Holy Land Foundation
12 didn't have enough employees on staff to do it.

13 During the course of this trial you have also learned
14 that Mufid Abdulqader had nothing to do with where Holy Land
15 Foundation's money went; didn't go to any meetings, didn't
16 have a computer, didn't sign any checks, didn't authorize any
17 wires.

18 You have also heard that he was actually a pretty average
19 fundraiser. He didn't raise more money than anybody else. In
20 fact, he raised less money than the first guy on the volunteer
21 fundraiser list, Mr. Idris, and he raised a whole lot less
22 than Kifah Moustafa, the Holy Land Foundation's Chicago office
23 representative and a fellow band member who raised almost half
24 a million dollars for the Holy Land Foundation during the
25 course of his fundraising.

1 You learned during the course of trial that Mr.
2 Abdulqader is one of anywhere from 4 to 14 band members who
3 played with the al-Sakhra and later Al-Nujoom band over the
4 course of its more than decade long history of performing.
5 And you learned that he didn't start managing the band until
6 the year 2000; that before then he was just another member of
7 the band like anybody else.

8 You learned during the course of this trial not just that
9 he played the role of a Hamas character, as the Government
10 told you about and as they even -- it was so important they
11 even put it in the indictment. You learned that Mr.
12 Abdulqader played lots of roles in dramatic skits. He played
13 the role of a hasidic Jewish character, he played the role of
14 an Israeli soldier, he played the role -- he even played the
15 role of Yasser Arafat, who was the head of Fatah, Hamas'
16 political rival.

17 I want to talk to you today about what the evidence, the
18 actual evidence, not fear, not prejudice, not exaggeration,
19 what the actual evidence shows in this case about Mr.
20 Abdulqader's role.

21 What I want to talk about, I want to talk about three
22 things the evidence proves about Mr. Abdulqader, and the first
23 of those things is that he was a singer. Now, the Government
24 brought you Mr. Shorbagi, and Mr. Shorbagi was asked about Mr.
25 Abdulqader's role and said, "He is just a singer." And that

1 in fact is what he was. He was singing with the al-Sakhra
2 band in 1980 when it started, and then he was still singing
3 with the Al-Nujoom band in late 2000, 2001.

4 You have seen videos of the band performing, and they
5 performed, not just as Mr. Jonas would have you believe, at
6 Holy Land Foundation functions or fundraisers for Holy Land.
7 They performed at IAP functions--that is the Islamic
8 Association for Palestine. They performed at MAYA functions,
9 Muslim Arab Youth Association. You also heard from Mr. Yaish
10 that they played at weddings. They performed at six or seven
11 weddings a year. The band also recorded, as you know, CDs and
12 sold those. Mr. Yaish told you about the income from those
13 that was claimed on tax returns.

14 And you have seen evidence, and I want to talk about that
15 particularly, that HLF sometimes hired the band to play at
16 Holy Land fundraisers. So let's take a look at some of those
17 documents.

18 The first one of those is Government's Exhibit No. HLF
19 Search No. 15. This is an invoice to the Holy Land Foundation
20 from a band performance in 1998. And as you heard from Mr.
21 Yaish, this address up here at the top, this highlighted
22 address, that is actually Munzer Taleb's address. You may
23 remember Munzer Taleb from the Palestine Committee list. He
24 was also an al-Sakhra Al-Nujoom band member, and he was
25 managing the band at the time this invoice was issued.

1 HLF Search No. 146 that the Government put in, more
2 evidence that he was a singer. That shows that the band was
3 hired to perform at a Holy Land Foundation event in San Diego.

4 Then there is one of my personal favorites, Holy Land
5 Foundation Search No. 147. I don't know if you all can see
6 this, but this document was put in by Agent Burns to show
7 payments to Mufid Abdulgader related to the band. And when I
8 questioned her about it, do you remember what she said about
9 it? She said, "We have no idea what this is." No idea. All
10 she could tell us was that this document came from the Chicago
11 office of the Holy Land Foundation. It was found in the
12 office of Kifah Moustafa, who was, as we have talked about and
13 will talk about again, a band member and also Holy Land's
14 Chicago office manager.

15 Now, that document seems to list a bunch of the band's
16 expenses for the whole year. It actually doesn't even look
17 like a Holy Land document. What it looks like is that Mr.
18 Moustafa put together a list of the expenses for the band for
19 the year. It has got a running tally down the side here.
20 Talks about weddings. It talks about equipment that the band
21 bought.

22 The next exhibit that I want to talk to you about is
23 Government's Exhibit HLF Search No. 145, and this is another
24 one that is important. This is a check, this is right here
25 the whole thing. This is a one-page exhibit that the

1 Government put in that is supposed to show a \$3,489 payment to
2 Mufid Abdulqader. And as you recall, the Government didn't
3 put in any back-up for that, no back-up documents, no
4 receipts, and they just said that that there was a payment to
5 Mr. Abdulqader.

6 And you may remember that on cross examination I put into
7 evidence the back-up documents, the documents that have the
8 Holy Land Foundation or the HLDL number at the bottom that
9 show that they were right in a row with this particular check.
10 And when I did that, you all saw that every single dollar that
11 that check is for has a corresponding receipt, including a
12 receipt for \$1.09 hotdog. So those are the exhibits that the
13 Government has put in that show you -- that talk about how Mr.
14 Abdulqader was a singer; that these are the exhibits that
15 relate to his singing. There are also the videos, but we are
16 going to talk about those separately in a minute.

17 There is also evidence that the Government put in that
18 shows that Mr. Abdulqader was a volunteer fundraiser. And as
19 I said before, you have learned that he moved here in 1995 and
20 moved his family here to Dallas to work for the City of Dallas
21 full time. And when he did that, he joined the local mosque
22 and began volunteering for some of the local organizations.
23 You heard that from Mr. Yaish. There is a local school, a
24 couple of the area mosques, as well as the Holy Land
25 Foundation. And you have seen evidence and heard evidence

1 that he helped the Holy Land Foundation out with fundraising,
2 particularly during those busy times of Ramadan and Eid.

3 Some of the Government's exhibits have to do with his
4 volunteer fundraising trips for the Holy Land Foundation. I
5 am just going to go through these quickly. There is this
6 exhibit that talks about -- These are actually two exhibits.
7 These are both calendar entries that you may remember that
8 show that he raised money for Holy Land Foundation in 1998 and
9 1999. Then Government's Exhibit Search No. 21 and 22 are
10 flight itineraries for fundraising trips in '98 and '99. So
11 those are the exhibits that have to do with the fundraising
12 aspect of Mr. Abdulqader's work with the Holy Land Foundation.

13 There were some other exhibits as well, and those were
14 transcripts of conversations. The Government put into
15 evidence exactly three conversations, I believe it was three,
16 with Mr. Abdulqader talking about his fundraising trips. And
17 you will remember he talks about going to different places and
18 how much they raised, and then he hears that a lady called in
19 and donated \$5,000, and he is happy about the amounts of money
20 he is helping raise.

21 I want to point out one thing that is pretty important in
22 one of those exhibits. This right here is Abdulqader Wiretap
23 No. 1. And I have highlighted a section here. What you can
24 see from this section is that Mufid Abdulqader knew so little
25 about the ins and outs of Holy Land fundraising, was so

1 uninvolved in the day-to-day fundraising activity, other than
2 his volunteer efforts, that he had to ask whether it was
3 normal for the Boston mosque to keep a percentage of what he
4 raised there in fundraising. He didn't know. And he said,
5 "You know, you have got to tell me these things when I go for
6 Holy Land, because otherwise I don't know what I am supposed
7 to do."

8 Now, one of the things that I would love for you to take
9 a look at when you are back there, and I know everyone is
10 calling on you to look at the evidence in this case, but this
11 is a very important piece of evidence for Mr. Abdulqader, and
12 that is Government's Exhibit HLF Search No. 23. The one -- I
13 would actually recommend that you look at Defense Exhibit
14 No. 1087, which is that same list but just in alphabetical
15 order. So Government's Exhibit Search No. 23 is a list, it is
16 a trick list, about two inches thick of the money different
17 fundraisers raised, and that one is in date order. Defense
18 Exhibit No. 1087 is the same list, but it is in alphabetical
19 order. It is just sorted differently so that you can see how
20 much money each one of the fundraisers raised.

21 If you look at that, as we did during trial, what you are
22 going to see is three pages of -- Here it is at the bottom of
23 one page, and then it is one full page and then part of a
24 third page. And what you can see is that Mr. Abdulqader did
25 fundraising for the Holy Land on occasion starting in 1997,

1 and he raised a total of about \$114,000. And I think Mr.
2 Yaish did the math for you, but you can certainly go and look
3 at it for yourselves.

4 He also told you that Mr. Idris, remember he looked at
5 Mr. Idris who was the first guy on that volunteer fundraising
6 list, Mr. Idris raised I think it was \$200,000 or \$300,000.
7 The one that really sticks in my mind is almost half a million
8 dollars raised by Kifah Moustafa who was the Chicago office
9 representative and also a fellow band member with Mr.
10 Abdulqader.

11 So those -- that -- Let me actually take a step back.
12 There is one other set of exhibits that the Government put in
13 that relate to Mr. Abdulqader's volunteer fundraising, and you
14 remember those? Those were the \$2,000 bonus checks that the
15 Government told you about. \$2,000 bonus payments. And you
16 may recall that Mr. Yaish told you that on occasion the Holy
17 Land Foundation would give bonuses to volunteer fundraisers
18 who raised -- who had done a good job at a particular event.
19 And in fact that is what happened in this case.

20 But what is important about those bonuses is not what
21 they are, but what the Government made them out to be. They
22 are actually five separate exhibits that the Government put in
23 to show those two bonus checks. They put in the check
24 request. They put in the check. They put in the check
25 receipt for one. For the other put they put in the check.

1 They put in the check receipt. We have five exhibits that are
2 put in there to show you about two payments, and that is just
3 to bulk up the exhibits that are out there that have anything
4 to do with Mr. Abdulqader that are about yay high anyway.

5 So what we have seen is that there is this little stack
6 of evidence out there that establishes that Mr. Abdulqader was
7 a singer and a volunteer. You have heard in this case how
8 there were what? Up to 30 or more volunteer fundraisers. And
9 you have heard also that there were at least a dozen singers.
10 And as the Judge has instructed you, and you are going to have
11 the instructions, the Prosecution has to prove to you not that
12 Mr. Abdulqader was a singer or a volunteer, but they have to
13 prove to you that he joined the conspiracy, a conspiracy to
14 support a designated terrorist organization, Hamas, and that
15 he did so with the specific bad purpose of disregarding or
16 disobeying the law. Now, how is the Prosecution trying to
17 show you that bad purpose? And here is where we get to the
18 videotapes.

19 You heard, I think from Agent Burns, that there are maybe
20 2,000 videotapes that have been seized in this case that span
21 from I guess the mid '80s all the way up through 2001. And by
22 my count, the number of video exhibits that the Government
23 brought to you here that show Mr. Abdulqader at all, there are
24 19 of them. And what I have done -- And what they want you to
25 do from those 19 exhibits is to infer some sort of bad

1 purpose, an intent to disobey or disregard the law. So we
2 have got to kind of bear down on those videotapes because they
3 are important.

4 What I have done to help us talk about them is put them
5 for you, based on the testimony in this case, on a timeline.
6 I hope you can read that. What you can see when you actually
7 look at this timeline is that almost all of Mufid Abdulqader's
8 performances that the Government brought you in evidence, all
9 these down here, predate 1992. They are before 1992.

10 Two, these two right here, this one and this one, HLF
11 Search No. 125 and 111, those two are from the year 1994. We
12 have one, this one right here, from 1995. That is HLF Search
13 No. 124. And then we have two, HLF Search No. 112 and 114.
14 So out of a total of 19 videotapes that show Mr. Abdulqader,
15 we have exactly three that postdate the Hamas designation as a
16 specially designated terrorist, which happened here in January
17 of 1995, and we have exactly zero that postdate the 1997
18 designation of Hamas as an FTO.

19 So, you know, we know from the testimony in this case
20 that the band was hired by different organizations--Holy Land,
21 weddings, IAP, MAYA--to perform not just in 1988 and 1989 up
22 through 1996, but all the way up through 2001. I showed you
23 the exhibits that showed that Holy Land hired the band to
24 perform at fundraisers all the way up until 2001. So where
25 are those videotapes? Do you have any of those performances?

1 Do you see any of those over here on this list beyond 1996.

2 The Government -- Most of what the Government brought you
3 in this case, the videotapes, are from the Intifada. And the
4 reason for that is because of the language that was used in
5 the Intifada and the things that were going on during that
6 time period. From those videotapes, these Intifada
7 videotapes, the Government wants you to infer a bad purpose to
8 break the law way down here ten years later.

9 I am going to talk about what we really learned from
10 those videotapes from Doctor McDonald, but before I do I also
11 want to remind you about the instruction that you got and that
12 you will have with you about the First Amendment.

13 As the Court told you, the First Amendment guarantees to
14 all persons in the United States the right to freedom of
15 speech, freedom of religion, and freedom of association. The
16 instruction says that because of those Constitutional
17 guarantees, no one can be convicted of a crime simply on the
18 basis of his beliefs or his associations.

19 Now, that -- There is an important part of that
20 instruction that you need to take a look at. The statute that
21 prohibits material support to a terrorist organization
22 specifically precludes using that statute to infringe anyone's
23 free speech rights. And the instruction tells you that if
24 somebody uses their words to actually carry out a crime, then
25 that obviously is not protected. So I want you to keep that

1 instruction in mind as we talk now a little bit about what the
2 videotapes really mean.

3 Doctor McDonald testified not only that he looked at
4 these 19 clips culled out of 2,000 videotapes over, you know,
5 a decade and a half, but that he actually took a look at the
6 complete videotapes that these clips came from. And what he
7 told you was that even in its early performances he is was
8 surprised by the mix of songs and the mix of performances. He
9 told you that the band played Islamic songs, it played
10 folkloric songs, it played martial songs. You remember those?
11 I gave you the list of the six, and he said these are what the
12 band played. And what they played from about 1988 to 1992,
13 1993, was pretty much an even cross section, an even split
14 among those different types of music.

15 Now, I think yesterday you may remember that Mr. Jonas
16 pointed out in one of the zakat committee videotapes a song
17 that was the same one that you had heard in one of Mr.
18 Abdulqader's videotapes, and he said, "See, even they are
19 singing Mr. Abdulqader's song." Ladies and gentlemen, that
20 proves the point exactly. Everybody in Palestine sings the
21 same songs. Everybody, no matter what their political stripe,
22 no matter what their background, no matter who they are, they
23 are singing the same songs. These are resistance songs,
24 resistance to the occupation, and everybody shares that
25 opposition to the occupation.

1 THE COURT: You have used 20 minutes, counsel.

2 MS. CADEDDU: Thank you, Your Honor.

3 Doctor McDonald explained to you how in the first
4 Intifada, that uprising we talked about that started in late
5 1987, that that was a really chaotic time in Palestinian
6 history. And at that time there had been 20 years of Israeli
7 occupation. And people were upset. I mean, you know, this
8 did not -- people did not -- This came out of deprivation and
9 hunger and anger and all those things. And those things
10 existed before Hamas even was created.

11 So along comes the first Intifada, and here comes Hamas,
12 and people are excited that somebody is standing up for them,
13 that somebody is trying to do something to alleviate the
14 suffering that they have been living under for 20 years, that
15 someone is trying to take their side. And the al-Sakhra band
16 is singing about what everybody in the Palestinian
17 territories, and even outside, is talking about is going on at
18 the time.

19 The skit that the Prosecution showed you a couple of
20 different versions of was from some of these very early
21 videotapes. And, you know, they love that skit because at the
22 very beginning Mr. Abdulqader says, "I am Hamas." And, you
23 know, that is supposed to be some sort of a confession. I
24 guess that Zionist guy was confessing to being a Zionist. I
25 mean, ladies and gentlemen this is drama. This is

1 performance. It may not be something that we would see on
2 Broadway, but these are people who are talking about and
3 acting out their political beliefs, and it is pure, protected
4 free speech.

5 Now, if Doctor McDonald had not testified, you would
6 probably have seen that and the Government would have told you
7 it was real scary, and you would never have known that it was
8 a traditional folk skit, a folk debate like has been happening
9 in the Palestinian territories for 100 years. You wouldn't
10 have known that in the skit the Hamas character and the
11 Israeli character debating who gets the land, and they are
12 doing that in the context of 20 years of occupation and
13 deprivation. We wouldn't have learned, as we did, that those
14 characters are acting out a power imbalance, and that the
15 Hamas character is complaining and criticizing Israel for
16 using its power to hurt the innocent and the weak.

17 And we would never have known at the end of that skit Mr.
18 Abdulqader sings a lament for the lost land, a song of sadness
19 that Doctor McDonald likened to American music that has
20 occurred over the years in our history.

21 These songs and skits are political speech. They are
22 protected by the First Amendment. And they couldn't possibly
23 be speech that is used to carry out an illegal activity,
24 because guess what. It is not even illegal until 1995.

25 So we hear about all of this, this context from Doctor

1 McDonald, and then we hear the Government, you know, has got
2 this story about how there is this sneaky thing, and they are
3 all singing about Hamas, and then all of a sudden one day they
4 decide they are not going to talk about Hamas anymore, but
5 Doctor McDonald told you what really happened.

6 What really happened is the band is reflecting exactly
7 what every band in the Palestinian territories was doing.
8 Everybody is talking about Hamas. It is, I think as he called
9 it, the flavor of the moment. And then when Oslo comes around
10 that kind of talk peters out. They fall out of favor.
11 Intifada bands go out of business or they start doing
12 something else.

13 And what happens in this case is that the band starts
14 doing something else; starts singing folk music, they start
15 doing traditional performances, they are dancing that debke
16 dance that you heard talked about from Doctor McDonald.

17 But what the Government did in this case is it scraped
18 together these three videotapes here that postdate 1995. They
19 got nothing in 2000 and 2001, but as this stuff is petering
20 out, this Intifada singing and performance, they have these
21 three videotapes that mention Hamas in 1996.

22 Well, HLF Search No. 124, that is the videotape in which
23 a man makes an announcement telling people that they can
24 contribute to Mr. Marzook's legal defense fund. That is one
25 mention of Hamas. That is this one right here. Then there is

1 HLF Search No. 112. In that one Mr. Abdulqader is handed a
2 note from the Women's Committee that sends a greeting out to
3 Mr. Rantisi and Mr. Marzook. And yesterday Mr. Jonas told you
4 that that makes Mr. Abdulqader a spokesman. I mean, I am not
5 sure who he is supposed to be a spokesman for, perhaps the
6 Woman's Committee, I don't know, but that is an attempt to
7 turn something that is an aside into something that is much
8 more important than it really is.

9 And then the last one of these videotapes that even has
10 any mention of Hamas, which as Agent Burns told you it is not
11 illegal to talk about Hamas even after the designation, is
12 this HLF Search No. 114. That video has a clip with a song
13 that mentions Sheikh Yassin's name. It is -- What the
14 Government has given you is six lines of a song out of an
15 entire videotape.

16 So even though they go on performing, they perform for
17 years, they perform through 2001, there is not a single
18 videotape that postdates these. And the reason why, ladies
19 and gentlemen, I promise you, I promise you that if they had
20 one videotape that had Marzook's name, Yassin's name, Hamas,
21 that said even the word Hamas, you would see it here. And the
22 reason you don't is because it doesn't exist, because what
23 Doctor McDonald told you is right--everything changed.

24 So that brings me to the last of the three things. I
25 told you that the evidence shows three things about Mr.

1 Abdulqader in this case. One, he is a singer; two, he is a
2 volunteer; three, he is a brother.

3 Now, yesterday Mr. Jonas told you that -- he pretty much
4 admitted that the evidence against Mr. Abdulqader is pretty
5 weak. He said, "Yeah. You know, she is going to tell you
6 that there were all these band members, and she is going to
7 tell you that he was going to tell you that he was one of 30
8 volunteers. And you all know from the evidence that he is not
9 -- Mr. Abdulqader is not in Mr. Marzook's phonebook, and he is
10 not a member of the Palestine Committee, and there is no
11 evidence of any of that." But yesterday, yesterday Mr. Jonas
12 told you that the reason that the Government went after Mr.
13 Abdulqader instead of Mr. Kifah Moustafa, Holy Land Chicago
14 office employee who raised half a million dollars and band
15 member, or Fawaz Mushtaha, he of the buried videotapes in the
16 backyard, or nearly 30 volunteer fundraisers, it is not
17 because we have our own little version of collective
18 punishment going on here in Dallas where the Government is
19 trying to punish that man for the sins of his brother. What
20 it really is about and the reason the Government prosecuted
21 him is because their translator said there was an 80 percent
22 shot that his voice is on the Philadelphia videotapes. That
23 is the distinguishing factor.

24 So, you know, Mr. Jonas said that I seemed pretty
25 surprised when Mr. Shafik said that on cross examination, and

1 he was right about that. The reason I was pretty surprised is
2 because in all the years I have been working on this case,
3 having seen all the exhibits that the Government was going to
4 put into evidence, that was the first time anyone had ever
5 said anything like that.

6 MR. JACKS: Your Honor, I am going to object. I
7 believe she is testifying now, and that is outside --

8 THE COURT: Sustained, counsel. Do you want to
9 rephrase?

10 MS. CADEDDU: Certainly. I will.

11 Mr. Shapiro talked about Mr. Abdulqader's brother in her
12 opening statement. She told you -- One of the first things
13 she told you was that Mr. Abdulqader's brother was the head of
14 Hamas. Did you hear a word about there is an 80 percent
15 chance that his voice is on the videotapes. Did you hear
16 anything about that, because I sure didn't. Did you see that
17 on any of the Government exhibits? No. In fact, the
18 Government was so uncertain about whether that was true that
19 they didn't even put his name on any of the lists from the
20 Philadelphia committee or Philadelphia meeting.

21 So, you know, the Government has got all these resources,
22 you haven't heard any evidence about how they sent those tapes
23 off for a voice analysis to check and see who it was. No, you
24 don't. What you hear is now an excuse, based on what I said
25 in opening statements about why he was here, trying to justify

1 the lack of evidence that there is in this case about Mr.
2 Abdulqader.

3 So let's just suppose that that is true. Let's suppose
4 that the reason that we are here is because there is -- the
5 translator says there is an 80 percent chance that his voice
6 is on the tape. So as between Mr. Abdulqader and Kifah
7 Moustafa, and as between Munzer Taleb who is on the Palestine
8 Committee and Mr. Abdulqader, and as between Fawaz Mushtaha
9 who buries videotapes in the backyard and Mr. Abdulqader, the
10 reason they decide to prosecute him and send him to the
11 penitentiary is because evidence they are so unsure about they
12 don't even put on the exhibits and they don't even talk about
13 in opening statements. Now, is that, ladies and gentlemen,
14 how we want our government to be operating? And more
15 importantly, is that proof beyond a reasonable doubt? It is
16 not.

17 The Government's attempt to place Mr. Abdulqader at the
18 Philadelphia meeting is part of a pattern that we have seen
19 here in this case to try to make him more important than he
20 is. They are trying to justify why a singer and an occasional
21 volunteer fundraiser is sitting over there in the hot seat.
22 And Mr. Jonas tried to do that by reading -- by turning
23 reading a piece of paper into being a spokesman. They put in
24 multiple documents to show the same transaction, like those
25 checks that turn into five different exhibits. And Mr. Jonas

1 tried to say that when Mr. Abdulqader told the FBI that he had
2 started fundraising for Holy Land Foundation in 1995 when he
3 moved to Dallas, that that was a lie because of all those
4 singing gigs that he had way back when. What we are talking
5 about here is two different roles, and the Government is
6 trying to conflate those roles and make this evidence seem
7 like more than it is.

8 So yesterday Mr. Jonas said in his closing arguments that
9 the Defense was trying to distract you, that I was trying to
10 distract you from the real issues in this case, and that
11 really kind of seems to me like the pot calling the kettle
12 black, because the real issue in this case is not whether
13 Mufid Abdulqader sang songs about Hamas during the Intifada.
14 The real issue is not whether he played an Israeli soldier or
15 a Hamas soldier in some sort of skit that happened before
16 Hamas was even designated, or had even committed a single
17 suicide bombing. The only question here, the question I care
18 about, the question you care about, is whether Mr. Abdulqader
19 acted willfully to break or evade the law and conspire to
20 provide material support to terrorism after 1995.

21 Now, I am not the one who put all the band's songs into
22 evidence and then tried to keep you from hearing any
23 explanation of what those meant. It is the Government that is
24 rightly worried about whether this little teeny-tiny stack of
25 documents that is going to compare to the boxes that are

1 somewhere over there that you are going to get and have in the
2 back is enough to do the job.

3 There is no evidence in this case that Mr. Abdulqader had
4 anything to do with where the money went. The evidence in
5 this case is that he was a singer, a volunteer, and a brother.
6 He went to work every day at the City of Dallas, he sang on
7 the weekends as a hobby, and he volunteered his time for the
8 Holy Land Foundation and other organizations.

9 The evidence in this case is entirely, completely
10 insufficient for you to find that Mr. Abdulqader committed the
11 crimes that are charged in the indictment and so I ask you,
12 please, to return a verdict of not guilty on all three
13 charges.

14 Thank you for your time.

15 THE COURT: Thank you, counsel.

16 Mr. Dratel?

17 MR. DRATEL: Your Honor, may we approach for just a
18 moment?

19 (The following was had outside the hearing of the
20 jury.)

21 MS. MORENO: We just wanted to know how much time is
22 left.

23 THE COURT: We are going to take a break. We don't
24 need to approach.

25 MR. DRATEL: We need to know how much time we have

1 got.

2 THE COURT: We are going to take a break in about 15
3 minutes. You guys have been keeping up with it. I have a
4 rough idea.

5 MR. DRATEL: I will only be about 45 minutes. If we
6 can just go through and then break after me.

7 THE COURT: You are going to go about 45 minutes?

8 MR. DRATEL: Yes.

9 THE COURT: Well, I don't know that I want to go
10 that long. We have been in here awhile. What time did we
11 come in? About 9:15? Well, We probably could do that, then.

12 MR. DRATEL: If you will give me a warning at 35
13 minutes.

14 THE COURT: Sure.

15 MS. MORENO: How much time is left after that.

16 THE COURT: I will tell you that after that. I
17 haven't totaled it up yet.

18 (The following was had in the presence and hearing
19 of the jury.)

20 MR. DRATEL: Your honor?

21 THE COURT: Counsel.

22 MR. DRATEL: Mate it please the Court.

23 Ladies and gentlemen, good morning. I want to thank you
24 for your patience and for your attention and in advance for
25 what I know will be your conscientious deliberation in a case

1 that is of the utmost importance to Mohammad El-Mezain and his
2 family. And it is utmost importance to all these Defendants.

3 This will be the last time I get to speak to you. Mr.
4 Jacks will get up after we are done. I can't cover
5 everything. I don't want to cover everything. Don't have to
6 cover everything. But it is really in your hands in your
7 minds to make those challenges to the arguments that the
8 Government makes, after I can't respond, based on the
9 evidence, based on your common sense.

10 In my opening statement I talked about the difference
11 between quantity of evidence and the quality of evidence, and
12 I think this case has demonstrated that with respect to
13 Mr. El-Mezain. I talked about distractions. Think about the
14 amount of time that the Government spent on evidence before
15 Hamam was designated, and in the case of Mr. El-Mezain before
16 October 8th, 1997, which is the key date for Count 1, which is
17 the only count that he is charged in.

18 Think of the amount of time it spent in its summation
19 yesterday on things that happened before 1995 and before 1997.
20 Time spent on family relationships, other associations without
21 any allegation of illegal activity in that conduct because it
22 is all pre-'95.

23 Think about all the time spent on institutions not in the
24 indictment--the Islamic Center of Gaza, the Islamic Relief
25 Committee. Think of the times you saw the videos of Azzam.

1 The guy died in 1989. That is 20 years ago, six years before
2 any designation. Doctor Esposito noted that Azzam was here in
3 the U.S. often to raise money for Afghanistan.

4 Why so much of all of that if the Government had a case?
5 Why that crackpot letter from Sultan Mahmoud if the Government
6 has a case? I am going to ask you that question more often
7 again in this summation, and I submit you will ask yourself
8 that question and should ask yourself that question in your
9 deliberations.

10 Conduct not connected to these Defendants; photos on a
11 temporary internet file in a computer in Chicago. No one in
12 this case from Chicago.

13 Now again, the key date for Mr. El-Mezain is October 8th,
14 1997. There are whole categories of evidence that predate
15 that. All of the Elbarasse documents, all of the Ashqar
16 documents, every demonstrative that the Government has in
17 evidence that mentions Mr. El-Mezain, there is not a single
18 piece of evidence on that demonstrative after October 8th,
19 1997.

20 Philadelphia meeting, October '93. Mr. El-Mezain is not
21 even there. Not on any of those planning calls that were put
22 in evidence, yet the Government puts him on the chart. Why,
23 if they had a case against him?

24 Mr. Marzook, all the telephone contacts before '95. They
25 stop in January '93 actually. All the checks from Mr.

1 Marzook, maybe four or five adding up to a few thousand
2 dollars, maybe \$10,000 or \$15,000, stop in 1990.

3 The videos of Mr. El-Mezain, all before October 8th,
4 1997; all but one of them before January of '95. And if you
5 look at them, this MAYA conference that they played yesterday,
6 what does he ask for? He asks for contributions for the
7 families of deportees, for needy families that the Red Cross
8 was helping at the same time.

9 Mushtaha Search No. 3, another video. I am not going to
10 go through all of them, but that is from 1990. If you look at
11 that, what he is talking about for the Occupied Land Fund, it
12 is so old it is not even Holy Land, he is talking about food
13 and bandages, high school for girls in Jerusalem, orphanages,
14 economic and educational projects for the Palestinians.

15 HLF Search No. 124, that is a 1995 one. He talks about
16 the Dar el-Salem Hospital opening, and we will talk about that
17 some more, that hospital in Gaza in Mr. El-Mezain's hometown
18 of Khan Yunis.

19 Now, El-Mezain Wiretap No. 1, how many times have we
20 heard that? The last one in that whole 180 pages is June of
21 1995, basically two and a half years before October 8th, 1997.
22 All of the telephone conversations with Mr. El-Mezain, except
23 one, are before October 8th, 1997. That is El-Mezain Wiretap
24 No. 9 is the only one that comes within the period. They put
25 in a half dozen or so conversations. That is out of ten years

1 of wiretap on Mr. El-Mezain's phone. It started in the summer
2 of '94 and ended in November of 2003, and that is all they
3 have. And you may say for a decade there is nothing there.
4 That is the answer.

5 And you know, they had a wiretap on his phone for ten
6 years, and I cross examined Agent Burns. They knew where he
7 was going across the country speaking. They knew all the
8 fundraising he was doing. Do we see a single speech or audio
9 for anything within the relevant time period? Not a one. And
10 you know why? Because there is nothing there.

11 Now, what evidence is there in the record with respect to
12 Mr. El-Mezain between October 8th, 1997 and December of 2001?
13 Think about yesterday's summation. Zero. Mr. Jonas did not
14 mention a single piece of evidence against Mr. El-Mezain
15 during that time period.

16 He misspoke at one point. He said that Mr. El-Mezain
17 raised \$400,000 with Mahmoud Zahar and Jamil Hamami in '99.
18 He meant '89. That is in Elbarasse Search No. 29. It is a
19 list of amounts raised in 1989. And there is nothing wrong or
20 illegal about that; six years before Hamas is designated at
21 all, eight years before Count 1 starts, which is October 8th,
22 1997.

23 Now, that one wiretap call El-Mezain Wiretap No. 9 is a
24 call from Shukri Abu Baker asking Mr. El-Mezain about records.
25 You should listen to the call. You should look at the

1 transcript. Mr. El-Mezain is completely casual and
2 unconcerned about records. Certainly not enough to put him in
3 a conspiracy. It doesn't prove anything.

4 Documents from San Diego, one document from the office.
5 It doesn't have anything to do with Holy Land. It is HLF
6 Search No. 29 and it is says "Fatwa," written by somebody else
7 that they claim Mr. El-Mezain sent to someone. They have no
8 proof he sent it. There were other Fatwas in the same folder
9 which we put in as -- It is Defense No. 1348 or Defense HLF
10 Search No. 29. And in fact, you will see that on the bates
11 stamp numbers the letter from Mr. El-Mezain is separated from
12 the one the Government put in by ten pages. It has nothing to
13 do with Holy Land. If they had a case, why do they have to
14 resort to that?

15 Nothing from Mr. El-Mezain's computer.

16 Look at the -- Even outside the -- outside -- if you look
17 at the conversations they put in, even the ones before October
18 of '97, a voicemail from Khalid Mishal in '94 before Hamas is
19 designated. El-Mezain doesn't go to Turkey. He doesn't
20 return the call. Remember they have a wiretap on his phone.
21 They talked about gaps. You know if there was a gap of any
22 significance in those ten years, you would have heard exactly
23 how long it was. There were no gaps. Mr. El-Mezain never
24 returned the call; never went to Turkey. Again, a voicemail
25 from somebody that someone doesn't return, doesn't respond to

1 in any way? Why, if they had a case?

2 El-Mezain Wiretap No. 4, the conversation Mr. Westfall
3 talked about when Mr. Odeh calls, and Mr. Jonas says, "Mr.
4 El-Mezain was happy." Listen to that call. Listen to the
5 call. Read the transcript. You will see. He is somber about
6 that suicide bombing. And he says at the end, "It will be
7 good," just like anyone would have an expression of hope that
8 all will be for the best despite what is happened. That is
9 what it is. You can hear it if you listen to it. Even in
10 Arabic you will hear it.

11 El-Mezain Wiretap No. 11, now I read portions of that
12 after the Government put it in. This is from April of '96,
13 again before October '97. Shukri Baker and Mr. El-Mezain are
14 talking about Mr. Abu Baker's conversation with the reporter
15 Gayle Reeves, and Mr. El-Mezain says at one point, "Tell her
16 what -- what -- what Hamas -- I mean, regarding donations to
17 Hamas at that time were not illegal. Also in truth, they are
18 honored to the entire Palestinian people in the first place."
19 I put that in because it shows Mr. El-Mezain understood that
20 the law had changed, and he couldn't give to Hamas under
21 American law.

22 Two pages later--I had to put this in as well--here is
23 what Mr. El-Mezain says. "By God, I personally believe that
24 people who want to live in peace shall live in peace, and
25 those who want to live in killing, they will keep killing

1 others, and they are the ones claiming to be peace
2 supporters."

3 Baker Wiretap No. 5, that is a call Mr. El-Mezain is not
4 even on, but it is about the money owed to him. It is clear,
5 and Wafa Yaish told you because he understands the Arabic,
6 that he was a go-between, Mr. Ahmed essentially negotiating on
7 behalf of Mr. El-Mezain. And you know if there was any
8 evidence that Mr. El-Mezain didn't report that money on his
9 taxes you would have heard about it. You know that. The
10 payment was for fundraising trips. He earned it. He was an
11 active fundraiser.

12 Now, the Elbarasse documents. Remember my contractor
13 analogy in opening where I said, you know, they come out with
14 a list, you can't use this subcontractor, you are a contractor
15 and you hire subcontractors, and say you worked for a public
16 authority and you can't hire -- That Elbarasse documents are
17 all pre-'95. They are all pre-designation. It is like saying
18 your contact with that contractor, when it was legal, is
19 somehow evidence that you continued to do it when there is no
20 evidence during the relevant time period.

21 And if those charts mean anything from '91 and '90, why
22 don't we see them for '92, '93, '94. The Elbarasse search was
23 in 2005, yet those documents all stop at '94.

24 Now, there is another issue. Mohamed Shorbagi testified,
25 and I will talk more later, but he testified about a 1994 MAYA

1 conference at which Khalid Mishal shows up, and there is this
2 semiprivate meeting where they have a break-out meeting of 150
3 to 200 people, and they talk about setting up committees.
4 Something is not working here if this was all done in '91.

5 By the way, Mr. Shorbagi is not on any of those
6 documents. And what does his testimony do to the importance
7 of the Philadelphia meeting if Khalid Mishal is supposedly
8 coming to the United States in '94 to talk about setting up
9 committees to do work?

10 Ashqar No. 5, again this has to be before December '93
11 because that is when the Ashqar search was conducted. Agent
12 Burns stated that the letter referred to the social and
13 charitable work, and she said movements pulse among the
14 people, that the author was referring to Hamas. But that is
15 all only because she started on page 25. When you go back to
16 page 20, which happened on cross examination by Ms. Hollander,
17 that is not what the document says. If you examine it, it
18 talks about the Muslim Brotherhood movement and not Hamas. It
19 is clear if you read the document in its proper order. Hamas
20 doesn't come up until page 25.

21 Again, this is also the work of an unknown person that
22 states, and this is a quote, "A suggested working paper on
23 rearranging frame of work on the inside." That is a quote.
24 Is that beyond a reasonable doubt for you--an anonymous
25 document, one person's point of view? It is the danger of

1 relying on that kind of stuff.

2 Elbarasse No. 22. The Government wants you to take that
3 as some sort of oracle. But it says, "Ramallah, not
4 licensed," talking about zakat committees. We know Ramallah
5 is licensed. They are all licensed. It says, "NabluS," it
6 says, "We have no one," by the way. They want to ignore that
7 part. The danger of relying on documents when no one has
8 testified about who wrote many of them, if not all of them,
9 why, for whom, and what it reflects, and who saw them, and
10 whether people disagreed or agreed or adopted and didn't
11 adopt.

12 InfoCom No. 30 is a letter found in the InfoCom files to
13 Mr. El-Mezain. Again, look at it. It talks about Islamists.
14 It does not talk about Hamas. It is the opening of the
15 el-Razi Hospital, which has to happen before '95 because that
16 was licensed in '93. It says at the end, it says, "Hamas
17 money" -- In that very document is says, "Hamas money does not
18 come from official institutions." The zakat committees are
19 official institutions.

20 Now, the Marzook Phonebook, they made a lot about that
21 el-Mezain is in it. They are cousins. Does it surprise you?
22 Is it shocking? And again, that address book is no later than
23 '95 because it was seized from Mr. Marzook in '95.

24 Demonstrative No. 8 of the Government, those phone calls
25 between Mr. El-Mezain -- Mr. El-Mezain's number and Abu

1 Marzook's number. But when you zoom out, which I told you in
2 my opening, what did you see? The Government didn't tell you.
3 Thirty of those calls are one-minute calls, which means
4 basically no conversation at all. It could be a voicemail
5 message. It could be someone is not home.

6 Agent Burns acknowledged she doesn't know what the
7 subject matter of a single call, they don't know who was on
8 those calls. These are cousins. It could be their wives, it
9 could be their kids, it could be birthday congratulations, it
10 could be congratulations on a kid's birthday, on the birth of
11 a child, on a holiday. All of that. We don't know. Can't
12 base your decision on that.

13 And it all stops in January of '93. This is particularly
14 true for those two in the demonstrative where they talk about
15 July and August of '92. Two one-minute calls. No idea who
16 spoke to who; if anybody spoke to anybody. They assume that
17 something happened and they have no basis for. It is
18 reasonable doubt. So it is the danger of having a conclusion
19 first and trying to fit the facts regardless of what the facts
20 don't say.

21 Again, those last calls with Abu Marzook were January
22 '93. New Jersey Bell records of Mr. El-Mezain cover all of
23 '93 for his calls, yet there are no calls after January of
24 '93. The wiretap of Mr. El-Mezain is up in August of '94, and
25 Marzook is not designated until July of '95. No calls.

1 Family ties. This is what the Government's case is
2 about. There is a General Marzook who is in the Palestinian
3 Authority, the sworn opponent of Hamas. This is Marzook's
4 brother. Mr. Shorbagi told you his mother and father are on
5 different sides. Did they stop speaking to each other? No.

6 They talked about Mr. El-Mezain's deposition, which was
7 in 2003. He is talking -- 2003, the last conversation with
8 Marzook in the records is ten years before. And again, we
9 don't know who spoke to who. We don't know how often Mr.
10 El-Mezain actually spoke to Mr. Marzook as opposed to his
11 family speaking. He is trying to recollect from a decade ago
12 without help from any records on the spot doing the best he
13 can.

14 Yesterday Mr. Jonas talked about IAP and said Mr.
15 El-Mezain said there was no relation between -- that he denied
16 a relationship between IAP and Holy Land. Not true. Listen
17 to the question and the answer.

18 Question: "Do you know of any relationship or dealings
19 that any of you principals of Holy Land Foundation had with
20 the Islamic Association for Palestine in January of 1989 that
21 would have caused IAP to know about the Occupied Land Fund and
22 what it was doing?"

23 Answer: "No. Actually we -- you asked me before about
24 the people of IAP, and I said to you, 'We know these people
25 but we don't have any relation with them.' And they know that

1 we have established Occupied Land Fund in that time. Not only
2 the IAP, actually. It became like -- let me see. A custom
3 with the Muslim organizations to recommend a good organization
4 for the good cause."

5 So a convoluted question and a convoluted answer, but he
6 says "We know them." And all throughout the deposition, which
7 you will see what is in evidence, he is talking about all
8 these people. He acknowledges he knows all of them. He is
9 telling the truth as best he can of some things that happened
10 10 or 15 years before the deposition.

11 And he is asked about personal dealings with these people
12 and he says no. They said, "Do you have any other personal
13 dealings?" And he clarifies, he says, "You mean personal?"
14 They said, "Yes, personal."

15 And by the way, if he did have any relationship with
16 these people in that decade between 1993 and 2003, why don't
17 you see a single telephone call from the wiretap with respect
18 to any of these people mentioned in deposition? Because he
19 was telling the truth, trying to recollect as best he could.

20 Mr. El-Mezain's candor is proved by his interview with
21 Agent Burns. He volunteered to her that he was a member of
22 the Muslim Brotherhood. He told her that. He told her that
23 his cousin was one of the deportees, a supporter of Hamas.
24 Told her that.

25 You should demand, I submit, you should demand evidence

1 after 1997 because that is what counts here.

2 Mr. Jonas said yesterday, "We are not trying to charge
3 these people for what they did" -- I mean, rather, "...of what
4 they said but for what they did." So what did Mr. El-Mezain
5 do after October 8th, 1997, and where is the evidence?

6 There are no conversations of any of those faxes that you
7 have seen. You know, all the faxes he received they want to
8 make it seem like it is Mr. El-Mezain. We don't know if he
9 read them. It is a blast fax. Agent Burns testified it went
10 out to numerous people. And it would be okay if he did read
11 them, because you are allowed to read things.

12 It is a compendium of reports from a variety of different
13 sources, including Israeli media, U.S. media, world media,
14 Palestinian media. And you heard that Palestinians get their
15 information many times from many sources because mainstream
16 media doesn't always follow it.

17 I want to talk about Mohamed Shorbagi. His plea
18 agreement. He testified the benefits he got from the
19 Government for coming here and testifying. He testified that
20 it went down from life, and then to a 15-year maximum, and
21 then he got sentenced to 92 months. And he can do even better
22 after his testimony here. It is totally up to the Government
23 to decide whether he has given substantial assistance in this
24 case to get another reduction. Only the Government can decide
25 that. Not up to the judge. The Government has to make the

1 motion. He can't make the motion. Judge can't do it on his
2 own. The Government has to make the motion. It is up to the
3 government to decide whether Mr. Shorbagi told the truth. Do
4 you think the Government is going to go back and say he didn't
5 tell the truth?

6 He wasn't prosecuted for his enormous fraud, \$600,000.
7 No prosecution for lying to agents, for tax evasion. Got help
8 on his family's immigration, returning to the United States.
9 Hasn't had to pay a penny of that restitution yet.

10 And if he didn't cooperate, what would he be facing? He
11 told you, he testified, 15 years for every time he gave money
12 to Hamas. Every allegation, 15 years, and they would be
13 stacked on top of each other--15, plus 15, plus 15, until they
14 got to life. That is what he was looking at.

15 He repeatedly lied to the agents; repeatedly. He said he
16 lied about maybe everything. He acknowledged that. Yet the
17 Government didn't reject him or his testimony, this guy who
18 lied every day at work for five years to someone who claimed,
19 and you heard his testimony those first two days. I bet you
20 thought, here is someone he is really close to, this Mr.
21 Khatib, with manic depressive, who he is caring for and
22 ripping off every day.

23 This is a guy who can make up stories. He made up
24 paperwork to hide his crime. He said he lied initially to the
25 Government because he wanted to go home. He lied here for

1 exactly the same reason. He wants that letter. He wants that
2 motion from the Government. He wants to go home. And he has
3 to satisfy the Government.

4 Because of that, there is an instruction in this
5 case--credibility. You heard about it, about someone like
6 Mr. Shorbagi getting benefits from the Government. "You must
7 decide whether the witness' testimony has been affected by any
8 of those circumstances, by the witness' interest in the
9 outcome of the case, or by prejudice against the defendant or
10 by the benefits that the witness has received. You should
11 keep in mind that such testimony is always to be received with
12 caution and weighed with great care. You should never convict
13 any defendant upon the unsupported testimony of such a
14 witness, unless you believe that testimony beyond a reasonable
15 doubt."

16 I submit to you you cannot believe Mr. Shorbagi beyond a
17 reasonable doubt, just based solely on his incentives for
18 testifying falsely here.

19 Now, let's talk about some of his testimony. He talks
20 about the zakat committees. He is totally misinformed. He
21 said -- he testified they were founded by Hamas. We know they
22 were all founded in the '70s or the early '80s before Hamas
23 exists. His information he said comes from newspapers and
24 friends. Is that the kind you want to rely on?

25 Mr. Jonas said yesterday, "It is where he is from."

1 Well, it is not where he is from. All the zakat committees in
2 this indictment are on the West Bank. He has never been to a
3 zakat committee, Mr. Shorbagi. He has never even been to the
4 West Bank. He has hasn't lived in Gaza for years, decades.

5 Think about Mr. Shorbagi. If he is really an insider in
6 this whole thing, where is a single wiretap conversation with
7 him on it? Ten years on Mr. El-Mezain, five or six years on
8 the Holy Land Foundation and Shukri Abu Baker. Think about
9 it. Where is a single call to corroborate a thing he said.

10 If you look at El-Mezain's phone records there are calls
11 to Rome, Georgia. There are two in January of '93, which is
12 before Shorbagi even goes to Georgia. He is still in Houston
13 at this time.

14 There is one on a Holy Land record from April of '94, but
15 we don't know what number. We don't know if it is Shorbagi or
16 Khatib or anybody. He says El-Mezain moved to California in
17 '95, '96. It was '99.

18 He doesn't say anything. You can comb his testimony.
19 Read it. He doesn't say anything about any conversation that
20 he had with any Defendant, particularly Mr. El-Mezain, saying,
21 "We are supporting Hamas. We are doing this for Hamas. The
22 zakat committees are Hamas." Not a single conversation.

23 He says Mr. El-Mezain came to Rome three to five times
24 between '93 and '99, but the only times he mentions specific
25 speakers, it stops in '95 about the speakers on that speaker

1 list. He doesn't say anything about after 1995. He doesn't
2 introduce a single document to corroborate when. He testified
3 on cross examination that when he was arrested the FBI took
4 everything from his house. Not a single thing to corroborate
5 him.

6 So he is not an accomplice in this case, regardless of
7 what you might hear on rebuttal, because here is what he said
8 in response to Mr. Jacks' question:

9 Question: "And what did you do that led to your being in
10 jail?"

11 Answer: "After the closure of the Holy Land Foundation
12 in 2001, I used to get money and send it to my father and to
13 my father-in-law in Gaza. I asked my father give the money to
14 Ahmed Bhar, Hamas. My I am sorry. Ahmed Nimer in Khan Yunis,
15 and my father-in-law to give money to Ahmed Bhar in Gaza
16 City." Giving money to his family, that is what landed him up
17 in jail.

18 I want to talk about the zakat committees. I want to
19 talk about Avi, because that is where the zakat committees
20 come. Levitt didn't talk about zakat committees. Hoffman
21 didn't talk about zakat committees. Shorbagi's information
22 about zakat committees, who knows how many levels of hearsay,
23 and wrong, and it is certainly not personal.

24 Avi. Anonymity you heard about the instruction. You
25 will hear about it again. His anonymity; can't research him.

1 There is a credibility issue. No academic credentials. Can't
2 challenge him in a public setting. He never aired his views
3 in a setting where people can say, "That is wrong. That is
4 right."

5 His lifecycle chart is really indicative, because you
6 didn't need an expert. All you needed was someone to look at
7 it. When Mr. Jonas asked Wafa Yaish about it and he said,
8 "Well, the Red Cross does the exact same thing that you are
9 talking about in terms of all things. Kindergartens,
10 healthcare, all this stuff that you say, all these
11 international donors, the U.N., they all do the same thing.
12 They all provide the same aid."

13 Practical experience. Now practical experience is
14 sitting in front of your computer reading newspaper articles
15 and looking at documents that people spoon-feed you. He has
16 never been to a zakat committee. Avi doesn't speak Arabic.
17 He has never been to any of the programs the zakat committees
18 conduct. He has never interviewed a recipient. He has never
19 talked to anybody in the Palestinian committee. That is
20 practical experience now.

21 You saw him on the stand with his big summary. He was
22 lost without it. He had to refer to it over and -- If he is
23 off the script he doesn't know it. He is not an objective
24 expert. He is part of Operation Defensive Shield. He told
25 you he called people afterwards to find out what they found.

1 He is not disinterested. He is here under orders. He said
2 that. This is part of his job.

3 And his hearts and minds theory, just a complete
4 contradiction. He basically acknowledged he has never been
5 able to explain it, how you have an overt secret--how
6 everybody knows but no one knows.

7 In summation Mr. Jonas said, he talk about favors for
8 Hamas as a result, you know, safe houses and taxi drivers.
9 What evidence? None. No evidence. All speculation. Widely
10 known in the community. Anything from that from Palestinians?
11 No. Not a word from anybody from Palestine that says these
12 zakat committees are identified with Hamas. I mentioned
13 Shorbagi. He hasn't been there. How would he know?

14 He says -- Avi said the zakat committees can't expose
15 their Hamas characters to those outside so as not to be
16 targeted by Israel or the U.S. or the European community. But
17 he said everybody knows. He said everybody knew by '91 that
18 all these committees were controlled by Hamas. It doesn't
19 fit. It doesn't make sense. It doesn't make sense logically
20 and it doesn't make sense by the evidence, which I will get
21 into a little more.

22 Mr. Jonas said yesterday, "Hamas has to let people know
23 that it is doing it to get the credit," but there is no
24 evidence of Hamas taking credit for zakat committees. Where
25 do you see that? It is not there.

1 And also Avi wants you to believe that it is so obvious
2 from 1991 on that these people in the zakat committees, people
3 in the zakat committees and that the zakat committees were so
4 connected to Hamas they constituted a danger to the state of
5 Israel, because remember Hamas is illegal as of '89, but they
6 are allowed to operate for more than a decade as part of the
7 Hamas social wing? You know that can't be.

8 This key leader theory of Avi's, Mr. Abington told you
9 Hamas -- the character of zakat committees is independent, and
10 leadership, whether one or the other, and they are mixed
11 because the boards are big, there are 13, 15 people, it
12 doesn't affect what they do and how they are identified in the
13 community.

14 Just think of yourself as a body, as jurors. Some of you
15 may be Republican, some of you may be Democrat, some of you
16 may be from other parties, some of you may be Independents.
17 Would it be fair because maybe there might be four Democrats
18 or six or eight to describe this jury as Democratic or
19 Republican?

20 The board of let's say a big company like Dell or General
21 Motors, or any big company, because their board has Democrats
22 on it or Republicans, to say the company is Democratic or
23 Republican, that is not the way it works. It doesn't work
24 that way for the zakat committees either, Mr. Abington told
25 you about it.

1 The sources Avi used. Khalid al-Qidra, that Palestinian
2 Attorney General, he didn't even know what happened to him.
3 He didn't even know about him, but he uses him as a source.
4 It turns out the guy is corrupt and he is fired.

5 Defense Exhibit No. 1404, which Mr. Westfall put in
6 evidence, which shows that at the Bethlehem Orphan Care
7 Society, Ghassan Harماس, the person who Avi was concentrating
8 on, was replaced as director by 1997. We have a document
9 signed by Walid Dawud as director. He didn't know -- Avi
10 didn't know. He doesn't want to know anything if it does not
11 fit in his theory. If it is not in his little book, he is not
12 interested. He doesn't know it.

13 Deportee status. The Government wants you to believe
14 that equals Hamas. Mr. Abington told you otherwise. It is a
15 mixture of people. InfoCom No. 26, that snippet where they
16 cut it off right in the middle, and then afterward the guy
17 says, "And some of us are no affiliation at all, but we were
18 just hanging out in the mosque." The Government cut that off
19 because they don't want to know about that.

20 If the Israeli government had sufficient evidence that
21 these people were Hamas, all the people they deported, they
22 could have arrested them. It was illegal already for three
23 years. Israel had complete control. There was no Palestinian
24 Authority then.

25 And look at that video that the Government played

1 yesterday about Fawud Abu Zeid of Jenin and Hamed Bitawi of
2 Nablus. They do not say they are Hamas in that video, never.
3 They identify themselves for Nablus and Jenin and their
4 scholarly work. They never say they are Hamas.

5 The Government also tries to isolate Holy Land's
6 assistance of the deportees as if it is somehow meaningful.
7 When you zoom out again you see everyone was. The ICRC -- The
8 United States condemned, Mr. Abington told you, the United
9 States condemned that deportation. The world did. The Red
10 Cross came to their aid.

11 Another Avi thing--Interpal. This is interesting, too.
12 It is a British organization, not designated by the U.S. until
13 2003. Cleared twice by the British government, and Avi says
14 insufficient evidence. Well, isn't that the point? That is
15 what you have to decide. You know, if it is insufficient
16 evidence -- Avi doesn't care. Avi says he can't make
17 mistakes, but he is way willing to overinclude everybody in
18 Hamas. He doesn't think he can make a mistake by
19 overincluding. You do make a mistake by overincluding. You
20 can't make that mistake. Insufficient evidence means
21 something to you. The reasonable doubt standard is what
22 governs.

23 They talk about the items recovered from zakat
24 committees. They were all over the West Bank. Mr. Abington
25 said that they don't affect the decision-making of the Hamas.

1 I mean of the zakat committees.

2 And the integrity of the documents. Do you remember
3 those two postcards that Avi said were seized in 2002? Yassin
4 and al-Rantisi's death doesn't happen until 2004. What can
5 you trust about those documents seized in a war atmosphere, in
6 a military operation, complete chaos. Everybody knows what
7 that is like.

8 The Palestinian Authority documents. By the way, PA No.
9 2 and PA No. 8, there is no eagle on them. Some of them don't
10 have dates. It is wrong. They say that the UASR and IAP are
11 financial sources for Hamas. We know they don't raise money.
12 If you read that it looks like the newspaper articles from the
13 United States that are accusing Holy Land and these other
14 organizations of affiliation with Hamas. They go back to
15 1993.

16 There are other organizations mentioned there, we don't
17 see them in Palestinian Committee, Elbarasse documents. We
18 don't know what that is. And Mr. Abington said after he
19 looked at it again, he said he wasn't sure if it was Arafat's
20 signature. He couldn't tell.

21 PA No. 8 at the end talking about Ramallah, it says -- If
22 they are talking about some of the Hamas connections of some
23 of the people on the committee, it says--this is the last
24 line, page 32--"does not constitute a threat at this point in
25 time."

1 Now, Avi said 1991, this is key, point of no return.
2 Hamas illegal as of '89. And look at what Mr. Abington told
3 you. Aid to zakat committees by other U.S. charities, USAID
4 from 1993 to 2006; well past the point of no return.

5 Qalqilya zakat committee got money through USAID after
6 this indictment, after it is named in this indictment as part
7 of the Hamas social network. Think about that. 2005.

8 Nablus got money from USAID projects.

9 Jenin, you have the Care document, No. 1074, 2005 Maram
10 document through USAID, another charity No. 1076, 2004, the
11 al-Razi Hospital. 2002, that is Defense Exhibit No. 102, that
12 is off the USAID website. ANERA, American Near East Relief
13 Agency, Avi said it gave money in 2005. World Food Program.
14 Mr. Abington talked to you about that. That is a U.N.
15 organization.

16 In her opening Ms. Shapiro said those were mistakes. Did
17 you hear anything about mistakes? Did they confront
18 Mr. Abington about mistakes? No. It is because these
19 institutions are not Hamas.

20 Look at -- I will put on the elmo here, this is from the
21 Government of Israel in 1993, licensing, 1993, two years after
22 the point of no return for these committees being controlled
23 by Hamas publicly, the Israeli government, which has complete
24 control over this area of Jenin at this time, no Palestinian
25 Authority, licensing that hospital. It is from an Israeli

1 Services officer. That is No. 1070.

2 Defense No. 1065 shows the PA licensed Tulkarem and gave
3 them a valuated tax registration in 1998. PA could have shut
4 them down. All these zakat committees--licensed, audited,
5 monitored by the PA through 2001, which is when Fatah was
6 controlling PA.

7 THE COURT: You have used 35 minutes, counsel.

8 MR. DRATEL: Thank you, Your Honor.

9 If you look at Defense Exhibit No. 1395, you will see a
10 whole series of documents to Holy Land and to others, and I am
11 just going to show you one document. I will show you the
12 Arabic because I think it will tell you. These are
13 testimonials, No. 1395, many of them to Holy Land for its
14 tenth anniversary from the Office of the President of the
15 Palestinian Authority Yasser Arafat, sworn enemy of Hamas,
16 congratulating Holy Land. They know where the money is going
17 and they know it is not going to Hamas. You have a letter in
18 there from the President of Lebanon, from the Jordanian Royal
19 Foundations. These are not Hamas people. Ministry of Social
20 Affairs.

21 That gets request me to the closed network that Avi talks
22 about. Let's talk about the closed network, because the
23 documents in No. 1395 and others show that Holy Land gave to
24 loot more than just those zakat committees. They gave to the
25 Halhul zakat committee, not in the indictment, not mentioned

1 by the Government. The Gaza City zakat committee, not in the
2 indictment, not mentioned by the Government, one of the ones
3 that Mr. Abington visited. Dar el-Salem hospital again.
4 Bosnia, Turkey, Oklahoma City, the New Jersey pantry.

5 And the other side of the closed network that Avi talked
6 about is also refuted by the evidence. These zakat committees
7 got money from USAID, from ANERA, from the Red Cross, from
8 Care, from Maram, from the World Food Program.

9 Talking about the closed network, look at the UASR board.
10 Doctor Esposito told you you have ex-CIA people, ex-State
11 Department people. He said that UASR invited strong critics
12 of UASR to speak on panels. That is not a closed network.

13 Ms. Shapiro told you in opening that there is very little
14 the Palestinian Authority could do about it, but they did
15 close them periodically and reopen them. You heard my cross
16 examination of Avi about the reorganizations that occurred in
17 1995 and '96 where the PA made sure, the Fatah PA made sure
18 that it had control of these zakat committees.

19 And you heard Mr. Abington disagree about the nature of
20 the closures in 2007, as if -- and I don't even think that is
21 relevant. We are talking about until 2001 they have to prove
22 it.

23 Now, what does the Government say about -- let's look at
24 Mr. Abington by comparison to all the Government witnesses,
25 none of whom have been to a zakat committee. Two of them

1 didn't even discuss them. Levitt and Hoffman didn't discuss
2 these zakat committees. He said -- Mr. Abington worked for
3 them; worked for the United States government and for the PA,
4 both committed enemies of Hamas. He visited the zakat
5 committees he said he visited Ramallah, Nablus, Tulkarem,
6 Bethlehem, Jenin, Gaza City, he went to a zakat committee in
7 Hebron, too. He talked to Palestinians. He speaks Arabic.
8 He was briefed daily by the U.S. government.

9 Avi told you the U.S. government -- the Israeli
10 government shares intelligence with the U.S. government. If
11 this were important, if this is about Hamas, which is a grave
12 threat to Israel, don't you think there would have been some
13 information about zakat committees?

14 As for each of these committees Mr. Abington told you he
15 never got information saying they were Hamas. And on cross
16 examination he said he would ask his staff, and they would
17 say, "No, they are okay." That is there on the ground at the
18 time it is happening; not in the office on a computer ten
19 years later.

20 Abington has been to more the zakat committees than all
21 of the zakat committees combined, infinitely more, because
22 zero is zero.

23 You may ask yourself -- You know, the Government said
24 that they are not here to defend the State of Israel, the
25 government of Israel. But they want you to believe an

1 anonymous witness with a strong stake in this case rather than
2 someone appointed by the President of the United States and
3 with no reason to favor Hamas, and worked for enemies of
4 Hamas.

5 And the language they use about a 30-year veteran of the
6 foreign service of the United States is insulting. I won't
7 even repeat what they said about him or what he knows because
8 it is insulting. And it is beneath them, it is beneath you,
9 it is beneath all of us.

10 Now, I want to just talk about Mr. Levitt's second --
11 Doctor Levitt's second round of testimony. We talked about
12 significance of these contacts, but he is so willing to reach
13 his conclusion first; doesn't need evidence, doesn't
14 want -- The contact between relatives doesn't seem to matter
15 to him. Doesn't even know who is on the calls. You can't
16 tell. Agent Burns doesn't know. There are no wiretaps of
17 those calls. The one-minute calls doesn't seem to matter.

18 The whole 1993 calls to Rantisi's number that they --
19 from El-Mezain's number for Doctor Rantisi, he is not even
20 there. He is deported during that period. He is not even in
21 Gaza. Doesn't seem to matter. The fact that it is a
22 voicemail doesn't matter.

23 Let me talk about context. Doesn't seem to matter that a
24 reporter from the Dallas Morning News can send a few emails to
25 someone in Gaza, a journalist in Gaza, and get to see Sheikh

1 Yassin and Mahmoud Zahar like that.

2 Now, I want to talk a little about designation, about Bob
3 McBrien's testimony. Talk about umbrella organizations. You
4 heard about ICS Hebron, Nablus, Jenin, Ramallah. You heard
5 what Mr. Abington said, too--they cover whole areas. Those
6 could qualify as umbrella organizations, they could be
7 designated, if they were Hamas.

8 And here is what Mr. McBrien said about the types of
9 organizations that are front organizations that you don't have
10 to designate. "Those that change frequently, we call them
11 transformers." Zakat committees haven't changed in three
12 decades. And you know, this is what he said on direct
13 examination about what he told Ghassan Elashi and others in
14 that meeting in February '95. He said, "It is not sufficient
15 to look at the list at that point. People change over time.
16 The list can change and will change over time." In 13 years
17 it has changed. Added lot of people. You have heard about
18 the stuff that has been added. Al-Salah, all of that. Never
19 these zakat, never of the people on the boards.

20 Twice during his testimony Avi even acknowledged
21 designation as the key. He is asked by Ms. Hollander about
22 the U.N. He said, Well, the U.N. is not a designated
23 terrorist organization." I asked him about ANERA because he
24 hesitated, and he said, "I just want to clarify, the ANERA is
25 not designated. It is not Hamas."

1 I think Mr. Abington alone is a reasonable doubt. You
2 don't have to decide. You just have to have a reasonable
3 doubt. Think about it this way. I am going to read the
4 instruction. "Proof beyond a reasonable doubt is proof of
5 such a convincing character that you would be willing to rely
6 and act upon it without hesitation in the most important of
7 your own affairs."

8 Hesitate in an important matter. Think if you are going
9 for surgery, and on one hand you have an anonymous doctor
10 whose credentials you cannot check, and on the other you have
11 a 30-year professional with the highest positions, appointed
12 by the President of the United States, that is reasonable
13 doubt right there. You hesitate before you take the word of
14 that anonymous person without credentials, when the other
15 person who you know has a 30-year track record tells you
16 something different.

17 I want to talk a little bit about Muslim Brotherhood.
18 Mr. El-Mezain admitted that he was Muslim Brotherhood. It has
19 never been designated. It is not even illegal. It is not
20 even illegal in Israel.

21 The Islamic Action Front, never designated, not illegal.
22 It is a parliamentary party in Jordan. We know from Doctor
23 Levitt and the charter that Hamas is a wing of the Muslim
24 Brotherhood, despite what other witnesses might want to say
25 about it.

1 Holy Land is not radical fundamentalist. In the Dar
2 el-Salem conversations I will get into in a minute,
3 Mr. El-Mezain talks about the hospital women were wearing
4 knee-length dresses. They go around unveiled. It doesn't
5 bother him. It bothers others. It doesn't bother him.

6 The photos, Defense No. 663, Defense No. 490, Defense No.
7 426, and HLF Search No. 175, which is a letter, all shows HLF,
8 the face of HLF, Ms. Duncan showed you, it is uncovered. This
9 is the face of HLF to the world.

10 Ms. Shapiro in her opening said, "Think like a terrorist
11 organization." I want to ask you if this stuff sounds like a
12 terrorist organization, thinking what Holy Land did. Suing
13 the Dallas Morning News, coming out in front and opening,
14 hiring John Bryant to go to the Israeli government, to the
15 Department of State, FBI, OFAC, paying by totally traceable
16 wire transfers, requiring licenses from the zakat committees,
17 keep all your records around for years, keep the sign-in sheet
18 from the Treasury. Why didn't the Treasury have any evidence
19 of that meeting in February of '95? Only Holy Land. I want
20 you to examine the evidence and use your common sense.

21 I want to get to the Dar el-Salem conversations. Defense
22 Exhibits No. 1340 and 1342. This is October '95, just to set
23 you back where it is. Ahmed Nimer, we saw that -- shorbagi
24 said he was Hamas. There is a book in evidence that says he
25 is Hamas. He is a cousin of Mr. El-Mezain. He wants to

1 control that hospital. His son is going to get fired for
2 incompetence, and Mr. El-Mezain is defending the hospital.

3 And also if you read those conversations, you will see it
4 cost Mr. El-Mezain's brother a job, because Mr. El-Mezain
5 said, "I can't pull any strings for my brother the get a job
6 there because I am already opposing Ahmed Nimer's son, so I
7 can't start talking about nepotism here." He is crying with
8 his father in tears over this. He thinks he is disappointing
9 his father. He is going against his cousin.

10 Now, the Government tried to insinuate that it was about
11 -- that he was -- That Ahmed Nimer was going to tell everybody
12 that it was Hamas. And that is true. That is what he was
13 threatening to do. But what you see in fact is Mr. El-Mezain
14 says, "Ahmed Nimer is wrong from beginning to end" when he
15 talks about that. It is not Hamas. He says, "It belongs to
16 everyone. It belongs to all Muslims."

17 And then if you look, this is a conversation between
18 El-Mezain and his brother at the same time period, two days
19 before. Think about this, if you are a terrorist
20 organization, if you are worried about being blackmailed, that
21 your Hamas hospital is going to be exposed, if it really were
22 true. Look at what his brother says about Ahmed Nimer. "Does
23 he want a bribe?"

24 And Mr. El-Mezain says, "By God, we won't pay him a
25 bribe."

1 Think about that. Is this thinking like a terrorist,
2 like someone who thinks he is guilty?

3 And then his brother says a couple of pages later about
4 Ahmed Nimer, "He needs a beating."

5 El-Mezain said, "No. He is the one gives beatings."

6 Mr. El-Mezain, "What does he say he is going to do?"
7 What is the action Mr. El-Mezain is going to take? The
8 Government is claiming that he is threatened that Hamas will
9 be exposed. It is the opposite. He says, "Legal action? I
10 would call the U.S. embassy." And then later he says, "I will
11 help you get lawyers here."

12 Another point with his parents he says, "I can call the
13 embassy and Ahmed Nimer will be in jail in a second."

14 You see how Mr. El-Mezain feels about this. He feels for
15 Palestine, Palestinian suffering, and the need for this
16 hospital--"belongs to all Muslims," he says. And this is not
17 a person who is conscious of being wiretapped. He is in
18 tears. This is as candid a conversation as you can have.

19 And at the end of it, if you look at what he says to his
20 father, he says, "Father, I have absolute trust that I won't
21 do other than as you instructed me. The verse you recited for
22 me a little while ago, when I went to Egypt in '72 you told
23 me, 'Son, he who does righteousness should not fear injustice
24 nor unfairness.' God's willing, we will not be unjust with
25 Ahmed, and we will not be unjust with anybody other than Ahmed

1 -- we will not be unjust with anybody other than Ahmed, and
2 neither will we sever our ties with our brother or our cousins
3 let us be better and let those who want something bad be
4 handled by God." That is who Mr. El-Mezain is.

5 Do you know what the proof is of his intent? This is not
6 a hospital that is run by Hamas. It is run by Holy Land, and
7 that there is no intent to provide any material support to
8 Hamas in this whole case for Mr. El-Mezain. Think about Dar
9 el-Salem Hospital--not charged in the indictment, not
10 mentioned by Avi as a Hamas institution. The Government has
11 tried to stay away from it the entire trial.

12 It demonstrates, as does all the evidence, that the
13 Government has not proved to you beyond a reasonable doubt
14 that Mr. El-Mezain knowingly and willfully--I am not going to
15 repeat the willfully instruction, but you have heard it--for a
16 bad purpose, to break the law, that Mr. El-Mezain -- no
17 proof beyond a reasonable doubt that Mr. El-Mezain knowingly
18 and willfully conspired with anyone to provide material
19 support to Hamas. That is Count 1. That is all he is
20 indicted for. And I am confident when you have examined the
21 evidence you will find him not guilty.

22 Thank you.

23 THE COURT: Thank you. Let's go ahead and take the
24 morning break. Be back at 11:30.

25 (Whereupon, the jury left the courtroom.)

1 THE COURT: All right.

2 (Brief recess.)

3 THE COURT: Counsel, was there a matter we needed to
4 address? Ms. Moreno?

5 (The following was had outside the hearing of the
6 jury.)

7 MS. CADEDDU: Your Honor, in my sprint to the finish
8 to try to give Ms. Moreno as much time as I possibly could, I
9 forgot to talk about one document, so what I would like to do
10 is have one minute to put that document on the elmo and show
11 it to the jury, and then turn it over to her.

12 MS. MORENO: I can give her a couple of minutes,
13 Your Honor. It is not a problem for me.

14 THE COURT: And how long do you think you are going
15 to take?

16 MS. MORENO: Well, I think I could take an hour and
17 a half.

18 THE COURT: If you could do it in an hour and a
19 half, I will work until you finish and then we will take the
20 lunch break and let you come back and finish. It will give us
21 until about 1:00. That is good with me.

22 MR. JACKS: That is fine.

23 THE COURT: That will be fine, rather than break
24 early, or do you mind not breaking it up?

25 MS. MORENO: I don't mind breaking it up.

1 THE COURT: Well, then we will break at 12:45. I am
2 just going to take an hour for lunch today, and we will give
3 you your one minute to finish up.

4 MS. CADEDDU: I am not as experienced as all these
5 big fancy lawyers.

6 MS. MORENO: You go first.

7 MS. CADEDDU: I will.

8 THE COURT: And then we will just plan on breaking
9 at 12:45.

10 (The following was had in the presence and hearing
11 of the jury.)

12 THE COURT: Members of the jury, Ms. Cadeddu is
13 going to address you for about another minute or two, and then
14 we will go back to Ms. Moreno.

15 MS. CADEDDU: Ladies and gentlemen, I am sorry. In
16 the mad dash to cover as much as I possibly could in the time
17 that I had allotted to me, there is one document I forgot to
18 show you all, and I didn't want to leave a misimpression. I
19 didn't want Mr. Jacks to stand up and say I was trying to
20 mislead you at all.

21 When I talked about Mr. Abdulqader not attending the
22 Philadelphia meeting, I was not trying to say that he didn't
23 check into the Marriott Hotel and that he didn't stay in
24 Philadelphia. What the evidence shows, and you have seen this
25 and I just want to remind you about it, is from Ashqar Wiretap

1 No. 1, as you can see here, there is a conversation in which
2 Shukri Abu Baker and I think Mr. Ashqar and Omar Ahmed talk
3 about how there is a festival that is going on in Philadelphia
4 at the same time the Philadelphia conference is scheduled.
5 And so that, ladies and gentlemen, is what I believe the
6 evidence shows about where Mr. Abdulqader was, and the fact he
7 wasn't at the Philadelphia meeting and was in fact attending
8 the festival. And I didn't want to leave misimpression with
9 you all.

10 Thanks very much.

11 THE COURT: Thank you.

12 Ms. Moreno?

13 MS. MORENO: Thank you, Your Honor. May it please
14 the Court, Your Honor.

15 Well, still the morning. Good morning, ladies and
16 gentlemen. We have come a long way together. And I want to
17 tell you I will be the last Defense attorney to address you.
18 That may give you some relief. I hope not too much.

19 Some of the things I am going to say to you will involve
20 repeating some of what we believe are the most critical
21 points. I am not going to belabor things. I don't want to
22 waste your time. But what we are doing here is very, very
23 important, and we are doing it on such a historic day.

24 As Mr. Westfall I believe pointed out to you, you have to
25 wonder when you are thinking about Veteran's Day, what are the

1 sacrifices that so many Americans have made for us? What is
2 it that those sacrifices are honoring? And I can't put too
3 much of a dramatic point to tell you that what we are doing
4 here today and what you especially will be doing in the next
5 few days or weeks is exactly what this sacrifice honors, and
6 we thank you for that.

7 And we saw how attentive you have been in coming, as
8 Ms. Cadeddu said, into this virtual pitre dish of infection,
9 you know, exposing yourself to the cold and to illness and all
10 of us together, and my client Ghassan Elashi thanks you from
11 the bottom of his heart and is so very appreciative.

12 Ghassan is, ladies and gentlemen, an optimist. As an
13 American citizen he believes in our system and fairness and in
14 justice. As a Palestinian, he believed that if you provided
15 for women and children, if you educated a generation of
16 children so that they could read and write, unlike their
17 parents and grandparents, who we have seen and we will see
18 would have to sign for their rations with a thumbprint because
19 they didn't know how to read and write in the 21st century, he
20 believed that if you gave them hope in a future, hope, hope in
21 a future, in which they had some kind of power over their
22 lives, that they could transcend the brutality of their daily
23 lives, the brutality, as Edward Abington said, the daily life
24 of the Palestinian. That is what Ghassan Elashi believed in;
25 that those children and those families that he helped,

1 especially the children, because children is an issue in this
2 case, that those children would turn away from the hopeless
3 violence that they see as a part of their daily life; or as
4 Doctor McDonald summarized--the powerless finally becoming the
5 powerful.

6 And for the work that Ghassan did, for all of that work,
7 for those who have been impoverished by politics and history,
8 for those people that have been failed, those children we saw
9 on the videos failed by leadership of all kinds, all sizes,
10 for those generations of refugees that he helped to feed and
11 clothe and to educate, to give them a small sense of dignity,
12 Ghassan Elashi does not apologize for serving them.

13 But Ghassan was also a realist, and he understood that
14 the mission of the Holy Land Foundation attracted enemies and
15 attracted detractors. And he acknowledged what was going
16 on--the negative press, the innuendos, and how it could damage
17 the work; not how it could damage him, but how it could damage
18 and disrupt the flow of humanitarian aid to some of the
19 poorest people we now know in the world.

20 And he did this always, always in an effort to comply
21 with the law; the law whose fairness he may have questioned,
22 as many Americans question the fairness of many laws, but he
23 sought to obey, and we are going to hear his words. We are
24 grateful, we are grateful that the Government captured Ghassan
25 Elashi on these wiretaps.

1 How did he do this within compliance of the law? Well,
2 you know, you are going to find out, because you are going to
3 look at these transcripts, that Ghassan was someone who wanted
4 answers. He sought answers. We will talk more about this in
5 detail, but he hired -- the Holy Land hired a lawyer, John
6 Bryant, to do what? To engage the FBI, the State Department,
7 even the Israeli embassy to get guidance, to comply with the
8 law.

9 He personally went to the Treasury Department, and we are
10 going to talk more about that, to meet with the OFAC senior
11 deputies, and he personally met with the FBI right here in
12 Dallas. And what happened? What did he learn with all these
13 overtures? What guidance was he given? What guidance was his
14 counsel given? Nothing.

15 Now, I want to talk to you about what the evidence shows
16 and what it does not show in this case, but I am going to
17 repeat what Mr. Dratel said, and I want you to have this in
18 the framework when you are thinking about the evidence.

19 Ms. Shapiro asked you all those weeks ago to think like a
20 terrorist organization, and I agree. I want you to do that,
21 because if you do that and you put the conduct of Ghassan
22 Elashi and the Holy Land Foundation within that framework,
23 there is absolutely no doubt you will acquit him.

24 Now, the evidence against Ghassan, here is what is
25 interesting. You have heard -- Now, Agent Burns talked about

1 a ten-year investigation. Right? Wiretaps and multitudes of
2 searches and seizures of millions of pages of documents,
3 hundreds of videos, really an international scope to this
4 case. And these wiretaps ran, you heard, 24 hours a day,
5 seven days a week, really in the span of this investigation
6 from 1994 to 2001.

7 There wasn't a single wiretap on Ghassan Elashi. Not a
8 single one. Now, he was captured on the wiretaps of others.
9 And the Government has brought and entered into evidence nine
10 calls, nine, nine phone calls in which Ghassan is talking
11 mainly to Shukri Abu Baker. And we want you to look at the
12 transcripts of every one of those phone calls, because you
13 will learn and you will see what his intent was. And as all
14 the Defense lawyers have told you, you have to decide the
15 intent. That is going to be your job.

16 Now, it is interesting that the Government never
17 wiretapped Mr. Elashi. As early as 1993 in the Philadelphia
18 meeting, we know that he was there. He didn't say much. And
19 the little that he said was mistranslated by the Government,
20 then they corrected it.

21 But they didn't wiretap him after that 1993 Philadelphia
22 meeting. And the first phone call in evidence is in 1995,
23 FISA wiretap with Ghassan Elashi. They then introduced into
24 evidence three phone calls in 1996, three, and these are the
25 important phone calls that I am going to talk in more detail

1 about because they center around the law and the list. Okay?

2 But in those calls Ghassan is questioning the fairness of
3 the law, he is discussing his political opinions, he is
4 railing against Israeli violence, he is doing things that
5 Americans do around our country every single day.

6 Now, don't you think, don't you think that if the
7 government, the FBI who was listening, thought that Ghassan
8 Elashi was going to violate the law, was alarmed about the
9 opinions that he expressed in those calls, they would have
10 wiretapped him at some point? But they didn't do that. Could
11 they have decided that a wiretap on Ghassan Elashi would not
12 be worth it? I think so. Because you know what? This intent
13 jury instruction that has been discussed with you about bad
14 purpose; you have to find a bad purpose. And we are going to
15 talk more about that. There is no bad purpose in any of those
16 phone calls from Ghassan Elashi.

17 Now, and they knew. They knew where he was, because
18 guess what. In February of '95 he goes to Washington, D.C.
19 Right? He goes to Washington, D.C. and he talks to the head
20 guys and he signs in. Okay? No searches of his home. There
21 is no Elashi home searches here. Yes, he worked at InfoCom
22 and InfoCom was right across the street from the Holy Land
23 Foundation, and you heard that.

24 You have seen all the InfoCom search documents. Right?
25 And those documents when you look at them, and you look at the

1 dates, they are all old--from the early 1990s. What does that
2 tell you? That is exactly what you would expect to find in
3 stored boxes. There is nothing sinister about that; nothing
4 whatsoever.

5 Ghassan worked at InfoCom, and he was a volunteer for the
6 Holy Land for 12 years, the span of the life of the
7 Foundation. He did not receive a nickel, not a nickel of
8 compensation. He was devoted to the humanitarian work. And
9 you can take a look at HLF No. 2, which is the employee salary
10 list that maps out the salaries for I think about ten years.
11 Ghassan Elashi is not on there.

12 The Government wants you to believe this is all an act.
13 Would a terrorist organization keep its incriminating old
14 documents in boxes near the mugs and the T-shirts? Remember
15 that testimony? Stored at InfoCom right across the street?

16 Now, before we discuss the handful of calls that Ghassan
17 was captured on, what does the evidence show, the very first
18 thing? What is the evidence in this case that directly
19 discusses what Ghassan Elashi did.

20 In February of 1995, right after Executive Order 12947
21 comes out, what does he do? He goes to Washington, D.C. to
22 meet with the top officials of OFAC to seek their guidance.
23 You saw this. And there is his name and there is his
24 organization, the Holy Land Foundation, and there is his phone
25 number. Okay? The sign-in sheet. Now, why is he there? He

1 is there to ask about this new law. He is there acting as a
2 responsible principal of a charity. How is this law going to
3 impact the humanitarian aid that is flowing into one of the
4 most troubled parts in the world? This action is bound to
5 call attention to the Holy Land Foundation, don't you think?
6 It is an act of an innocent man trying to follow the law.

7 Now, what is odd about this, what is very odd about this
8 is that the Treasury Department, if you recall the testimony,
9 had no notes, memos, records, they didn't have anything about
10 this meeting. But a month earlier President Clinton declares
11 a national emergency. Okay? And the law comes out.

12 And in InfoCom No. 37, that law which the Government
13 tried to insinuate was something sinister, that law, the copy
14 of that law is found in Ghassan's office. This is more
15 evidence of a principle of a charity acting responsibly. Of
16 course he needed to know what the law said. Two Arab-American
17 leaders traveled to the Treasury Department to meet for an
18 hour with the head of OFAC and with other OFAC officials,
19 including Mr. McBrien? Remember him? And with the senior
20 OFAC lawyer. And they are, by McBrien's own admission,
21 seeking guidance. This is a big deal.

22 And there isn't a single scrap of paper anywhere in the
23 Treasury Department reporting what went on. Isn't it odd that
24 with four Treasury Department officials in that crucial
25 meeting, including a senior lawyer, not a single scrap of

1 paper exists in the department recording what was going on?
2 If it wasn't found in InfoCom, where would the evidence of
3 such a meeting be?

4 Certainly to maintain a record of such a meeting would
5 contradict the theory in the Government's case. That would
6 undermine their theory that Ghassan did not comply with the
7 law, that he was a part of a terrorist organization. But this
8 doesn't comport with the evidence.

9 And again, take a look at that willfulness instruction.
10 You have to have a bad purpose to do something that the law
11 forbids, not a good purpose to find out what it is the law
12 really means.

13 Now, these nine phone calls of Mr. Elashi, there is a
14 theme in their entirety; not just a sentence here or a
15 sentence there. And, you know, a lot of this evidence, and
16 surely you have seen the dynamic in this courtroom, a lot of
17 this evidence has been presented in redacted form, out of
18 order form, not chronologically. And I am going to ask you
19 when you go back there and you look at the transcripts and you
20 look at the Philadelphia meeting and you look at documents,
21 those that you can see if there is a date, which frankly most
22 of the Elbarasse and Ashqar documents don't have dates, but
23 when you are looking at this evidence, do it justice and look
24 at it in the order that it should be reviewed.

25 When you are reading a book, do you begin on paragraph 3

1 page 61, or do you begin on page 1? When you are reading a
2 document, do you begin near the end and then you go to the
3 beginning and then to the middle? No, you don't do that. You
4 don't do what the Government has been doing for the last six
5 weeks. So read them in order, please.

6 Now, in these nine phone calls what you are going to find
7 is that Ghassan was asking for clarity, he is expressing
8 concern, he is looking for answers. But what you never hear
9 in any of these phone calls, never, is what you would expect
10 to hear from someone who is, as the Government portrays him, a
11 material supporter of terrorism; a covert secret person who
12 supports Hamas really. Okay? That is who they say Ghassan
13 Elashi is. That is not what you hear.

14 And remember these are wiretaps. These are unguarded
15 moments. Okay? You don't hear how -- You don't ever hear him
16 say how well one zakat committee over another should be
17 preferred because it is, quote, "all ours," whatever that
18 means, whatever that means. You don't hear him ever say how
19 one family of a martyr or a suicide bomber should be
20 preferred. He doesn't even speak of such things, never. His
21 whole focus is to keep the flow of humanitarian aid flowing
22 within the bounds of the law, even if it is a law that he
23 believes will have an unjust consequence.

24 His response to such a law, what does he say he is going
25 to do? Look at those conversations. Do you know what he

1 says? "I am going to demonstrate. I am going to be severely
2 out spoken." Wow. He says, "I am going to picket. I am
3 going to call press conferences. I am going to march around
4 city hall." That is what he says. Are those the words or
5 intentions of someone who is part of a terrorist organization?
6 No. Again, this is the conduct of an innocent man trying to
7 follow the law. Take a look at that willfulness instruction.

8 There is some of the things I am just going to quote to
9 you. And remember, these transcripts of these phone
10 conversations, as Mr. Westfall pointed out, they have those
11 big thick black lines. You will know when you look at those
12 transcripts, that is because the Government helped you by
13 taking out some stuff because they felt you didn't need to
14 know that. Okay? Take that into consideration when you are
15 looking at the meaning of a transcript.

16 He says things like, "They will not," and I am quoting,
17 "They will not shut off this institution unless they come with
18 hard evidence." Okay? He talks about raising the issue of
19 collective punishment through ad campaigns and press
20 conferences. He wants to attract the media. Is that what a
21 terrorist organization does? Attract the media?

22 There is a lot of discussions around the terrorism bill.
23 He says, "There must be a procedure about this. How will I
24 know unless they bring me the law?" And we are going to
25 discuss more about that.

1 There are two or three calls in 1999 about Steven
2 McGonigle, who you saw here, and Mr. McGonigle admitted that
3 Ghassan Elashi and the Holy Land Foundation sued his
4 newspaper, sued his newspaper because they felt what the
5 newspaper was doing was inaccurate and unfair and damaging the
6 flow of humanitarian aid to the needy. And Ghassan Elashi
7 says in those conversations, "This guy McGonigle, he is on a
8 mission and I don't trust him." That is what he says.

9 The Government wants to talk about Sheikh Ahmed Yassin
10 and all of that, and that is fine. Just read the
11 conversations in total.

12 Now, what else did Ghassan and the Holy Land do? Look at
13 who they hired. You know, John Bryant, he doesn't have a dog
14 in this fight. He was a U.S. Congressman for 14 years
15 representing Dallas. He was an ambassador for Switzerland for
16 a term. He is a lawyer for 35 years. Thirty-five years. He
17 held Presidential appointments. Okay? He has a top secret
18 security clearance. Is that somebody a terrorist organization
19 would hire to represent them?

20 For several years there were periodic news reports that
21 included assertions that the Holy Land was involved in
22 providing assistance to questionable terrorist organizations
23 overseas. These were unattributed reports. So the Holy Land
24 hires him and says, "Find out. Find out if we are doing
25 something wrong. Find out where these reports are coming

1 from. Help us."

2 So what does he do? He met with the Charge d'Affaires,
3 it is just a fancy name, he met with a top guy at the Israeli
4 embassy in 1998. He called to request a meeting. And he told
5 you that he met with a gentleman by the name of Mr. Ben David,
6 and that apparently they had a nice meeting. Mr. Ben David
7 said, "I will get back to you." And when he didn't and when
8 Mr. Bryant called him, Mr. Ben David said, "Well, I can't talk
9 to you anymore." That was the end of that conversation.

10 John Bryant said that reports had surfaced in the
11 newspaper that the Holy Land was providing financial relief to
12 Palestinians in need, and if Israel had concerns, if Israel
13 had concerns he could tell John Bryant and John Bryant could
14 take it back to the charity and see if there was some sort of
15 resolution, some kind of understanding. But he couldn't talk
16 to them anymore, and that was the end of that conversation.

17 John Bryant met with the FBI on three occasions, two in
18 Dallas and a third in D.C.; told you that he met with a
19 gentleman by the name of Steve Jennings, the No. 2 man in the
20 Counterterrorism Division of FBI, all in 1998, and '99. He
21 met with the agent in charge here in Dallas Danny Defenbaugh,
22 and other agents and staff members. Who went with him?
23 Shukri and Ghassan. Is that what terrorists would do, a
24 terrorist organization would do? Defenbaugh was the head of
25 the office.

1 In a second meeting with Steve Garrett, again with the
2 FBI, Ghassan and Shukri are present. He asked for guidance on
3 what the Holy Land should be doing. Did he get any? John
4 Bryant told you -- Do you think John Bryant is lying about
5 anything of this? He said no nobody told John Bryant that the
6 Holy Land shouldn't be doing any business with zakat and
7 charitable organizations in the West Bank.

8 And then what does he do? He goes, at the direction of
9 the charity, to the State Department, the State Department in
10 Washington, D.C. in 1999 or 2000, and he meets with a
11 gentleman, Michael Sheehan, and he asks him and he pretty much
12 gets the same answer. And I asked him in my direct, I said,
13 "Did anyone in the United States government ever give you
14 guidance, ever tell you what to do or what the Holy Land
15 Foundation was doing wrong?" And he said no.

16 The head of the Criminal Division of the Department of
17 Justice, the Department of Justice, the employer of these
18 Prosecutors, he wouldn't meet with John Bryant. John Bryant
19 asked for meetings with Madeleine Albright and Janet Reno.

20 In the end, in the end, what John Bryant wanted and
21 expected was the United States government would explain what
22 concerns they had and give the Foundation guidance as to how
23 to continue to provide aid to refugees in a way that was
24 lawful, in compliance, and didn't cause any concern.

25 Is that the conduct of a terrorist organization--to hire

1 a lawyer, to reach out to the very entity that you believe is
2 responsible for the humanitarian crisis that you serve? Is
3 that what a terrorist organization does? Was Ghassan acting
4 with that bad purpose to obey or disregard the law?
5 Absolutely not.

6 Let's see what Ghassan says about complying with the law.
7 Baker Wiretap No. 11. You have heard about it before. It is
8 a conversation, and it is a critical one, and I ask you to
9 please read it. Read the conversation. April 23rd, '96. And
10 it is basically a continuation of the wiretap of April 19th,
11 '96, which is Baker Wiretap No. 35. They are both in
12 evidence. And they are talking about the law, and Ghassan is
13 expressing confusion. He doesn't understand that you can't
14 transfer money to somewhere without it being published
15 somewhere; that you can't do it. And he talks about, "You
16 mean that -- if you can't transfer money to a school?" And he
17 says, and I am quoting, "They cannot stop me unless they bring
18 me the law, the regulation or the policy, whatever, that
19 prevents me from sending to the school."

20 Now, I told you about these conversations in my opening
21 remarks. This conversation is very important, and I am going
22 to read you a few portions of it, not the whole thing. But
23 this tells you what they are thinking. Okay? In 1996, about
24 this law in 1996. This is a year now after Ghassan Elashi has
25 gone to Washington, D.C. Okay? And we are in this

1 conversation, and Ghassan says, "I mean, are they going to go
2 to the bank in Gaza and say that this charitable society and
3 that university and this hospital are -- "

4 And Shukri says, "The best is how they must do it."

5 And Ghassan says, "But this is injustice." This is
6 injustice. That is what he is thinking.

7 And Shukri says, "Of course. Do you think we are
8 speaking about justice?" And he says, "What was I telling
9 you? The law can have some interpretations, but there isn't
10 much room for moving, meaning this is what is going to happen.
11 They will have to tell you what -- among the foreign
12 organizations you are not allowed to deal with, and you have
13 to abide by that." Not you have to skirt around that or we
14 will find a way to skirt around that. He says, "You have to
15 abide by that."

16 "The burden of proof is there." This is Shukri. "They
17 have come up with the list. Without that list I don't think
18 they can enforce anything."

19 So now what does Ghassan say. He says, "This means that
20 they will have an economic siege. The organizations which
21 they think have a connection with Hamas inside Palestine which
22 constitute a large segment of the social and charitable
23 existence of Palestine. This is considered an economic siege
24 over the Palestinian people. What this means is this issue is
25 a huge political issue." This is '96.

1 And it says, "This issue is considered a crime. I
2 imagine it is a crime."

3 Does he say, "We have to break the law or conceal?" No,
4 he doesn't say that. He says, this is Ghassan, "We have to be
5 very, very outspoken." That is what he says. And he says it
6 passionately. And then he says, "I don't care about the law."

7 And Shukri says, "No, you have to be."

8 And Ghassan says, "Explain it to me."

9 And Shukri says, "You have to be very outspoken because
10 it is clear that they are going to single you out."

11 Ghassan continues, "I don't care about the law. I care
12 this is an injustice, a sanction against the Palestinians."

13 And Shukri says, "But you have to abide by the law. You
14 can raise your voice."

15 And what does Ghassan Elashi say? He says, "I am going
16 to abide by the law because I won't be able to make a
17 transfer. I know that. But meanwhile, what I am going to do,
18 I am going to put my neck on the whole issue, because this
19 should not happen."

20 What is going on here? It is a debate. He is
21 questioning the fairness of this law. That is what this is.
22 He is thinking that this could affect and impact the aid.

23 Now, Ghassan goes on and they are talking more about the
24 law, and Ghassan says, "All right. I will tell them, send me
25 a list of the organizations you consider to be terrorist

1 organizations, and I won't send to them." That is what he
2 says.

3 Look at the transcript. This is April 23rd, 1996. And
4 guess what. On April 23rd, 1996, no zakat committees on the
5 list, and today, Veteran's Day, November 11th, 2008, there are
6 no zakat committees on the list, and no members of the board
7 of zakat committees on the list.

8 And they talk about the list more and more. And we know
9 that someone -- that Ghassan is someone who challenges things
10 legally. He hires lawyers. He goes out and he finds out what
11 is going on. He is not going to be silent about this, you
12 see, because he is in charge here. He is concerned about the
13 aid that is going.

14 He says, "They tell you that a charitable organization
15 which has 300 orphans, all of whom are children or families of
16 martyrs, don't send to them because their parents were members
17 of an Islamic Movement? Are we going to say yes? Of course,
18 I am not going to be able to transfer the money, because even
19 if you tried to transfer the money, they will cut it off."

20 And Shukri says, "Yes. And so what is my answer to
21 them?"

22 And he says, "Just give me the list and I will make sure
23 that I am not going to transfer." He doesn't like it, but he
24 is going to follow that law. But he needs to know what the
25 law means.

1 So when you are thinking about his state of mind in 1996,
2 when he is getting -- he has got no idea who is on this list.
3 Okay? You have to think what is the conduct showing you, not
4 just what he says, because the Government may stand up and
5 say, "Well, they knew that they were being wiretapped, so this
6 is all code." They may make that kind of an argument. So
7 just look at the conduct. Look at what they actually did.

8 The list, I have to talk to you about the list. Ms.
9 Duncan talked to you yesterday about the importance of this
10 Treasury list. You know why it is so important, ladies and
11 gentlemen? It is the law. That is what we are talking about
12 here. We are talking about the law. Okay? This is what the
13 law is.

14 Now, she told you that the FBI knew that Holy Land was
15 transferring money to zakat committees, and this is a very
16 important issue so I hope you can follow me on this. I hope
17 you stay with me on this. But there was something else that
18 the FBI knew. It knew that Ghassan and Shukri were looking
19 for the Treasury Department list to tell them who they could
20 deal with. Okay? And they knew if the Government put the
21 zakat committees on that list, that Holy Land would stop
22 transferring money to them. How do they know that? You got
23 Wiretap No. 11. That is what you've got for sure.

24 And it couldn't be any clearer from this exchange and
25 from the rest of the conversation in that wiretap and others

1 that Ghassan believes the list will tell them what Holy Land
2 can and cannot do. Okay? He believes that if the government
3 wants to prevent Holy Land from contributing money to a zakat
4 committee, well, if the government wants to cut the zakat
5 committee off from the U.S. financial system, remember those
6 words, remember that exhibit, to use the words of Adam Szubin,
7 the Treasury Department official that you heard about, "It has
8 to put the zakat committee on the list." And Ghassan and
9 Shukri made it clear that if they put them on the list they
10 wouldn't give money to them. Okay?

11 Remember Ghassan says -- Shukri says, "You have to abide
12 by the law." And Ghassan says, "Well, I am going to abide by
13 the law because I won't be able to make a transfer."

14 You know, the whole point is to keep the humanitarian aid
15 going. They are not going to jeopardize that. They are not.
16 The Government's theory is that of course they would, because
17 they are really supporters of Hamas. This is nonsense.

18 When you go back to the jury room and you figure out
19 whether the Government has proven beyond a reasonable doubt,
20 because that is your job, your burden, that Ghassan acted
21 willfully, I want you to read those transcripts. Okay? It
22 shows exactly the opposite; that as much as he thought that
23 this law was unfair, that he had every intention of following
24 it.

25 Now, the amazing thing--listen to this--is that the FBI

1 knew what Ghassan thought. Don't you think that if the
2 government had really been interested, if this was really the
3 intention of the government in stopping the flow of the money
4 to the zakat committees that they now claim in this courtroom,
5 and only in this courtroom, are under the control of Hamas,
6 that don't you think instead of trying to construct some phony
7 criminal case against these gentlemen, that it would have put
8 zakat committees on the list?

9 Now, Ms. Duncan talked with you about the reasons that
10 Matthew Levitt, Doctor Levitt, and Mr. McBrien came up with
11 for why those zakat committees aren't on the list. Remember
12 that? Well, there is not enough time in the day. Okay? That
13 answer? The Government has an additional response. Okay? To
14 the failure to designate these organizations. They say that
15 if the Defendants knew that Hamas controlled a particular
16 zakat committee, they couldn't give money to it even if the
17 Treasury Department hadn't designated it and put it on this
18 list. This argument doesn't make any sense. The executive
19 order, the law which is what we need to obey, the executive
20 order is supposed to work when the government, quote, alerts
21 the world to the organizations that it believes are controlled
22 by Hamas, and in so doing cuts those organizations off from
23 the U.S. financial system. All right?

24 People like Ghassan Elashi and Shukri Abu Baker aren't
25 supposed to have to figure out on their own how many members

1 of a zakat committee board might be Hamas members, or if they
2 exercise control over that committee, or what kind of posters
3 hang on the walls, or what kind of key chains are found. No.
4 No. That is not the way it works.

5 What the Government is trying to do here is patently
6 unfair. It knew from Ghassan's February '95 OFAC visit that
7 he was looking for guidance. And you know what Mr. McBrien
8 did? He referred him to the list. We will talk about that in
9 a minute. And they knew from these conversations what was
10 going on.

11 Now, here is what is interesting. Years later, and I
12 think you heard this in the testimony, that the Treasury
13 Department has a standard when they designate, and that
14 standard is reasonable belief, reasonable belief, not beyond a
15 reasonable doubt like your oath is here, but reasonable
16 belief, which is a lesser standard. Okay?

17 So years later, even though the Treasury Department has
18 not yet even come to a reasonable belief, which is the
19 applicable standard, not beyond a reasonable doubt, that Hamas
20 controls the zakat committees, the Government wants you, they
21 want you to find beyond a reasonable doubt a higher burden
22 that Hamas controlled them and that Ghassan knew it. It wants
23 you to do something the United States Treasury Department
24 won't do. And you know why they won't do it? Because they
25 don't have the evidence, and that is wrong.

1 And the last point on this list, remember when McBrien
2 was testifying on direct and the Government had him talk about
3 the Treasury Department's antiterrorist financing guidelines?
4 You know, this was with Ms. Shapiro and then Mr. Cline, the
5 voluntary best practices for U.S. based charities. The
6 Government had Mr. McBrien read from -- And that was OFAC
7 No. 3 OFAC No. 3. The Government had Mr. McBrien read from a
8 couple of sentences. In footnotes, remember those footnotes,
9 that document which say that list-checking alone doesn't
10 guarantee safe and secure delivery of charitable funds in high
11 risk areas.

12 And you might have thought in just listening to the
13 direct examination, that is why cross examination is so
14 important, you might have thought that when the Government
15 when Ms. Shapiro was asking him these questions that those
16 guidelines existed during 1995 to 2001, which is the relevant
17 time period for your consideration. Okay? 1995 to 2001.
18 That is what the indictment holds you to.

19 And so you would have thought, well, you know, if Ghassan
20 Elashi was looking at the list all this time and asking for
21 this guidance, he could have looked at those footnotes.
22 Right? And he would have had a fair warning that it couldn't
23 rely on the list. Okay?

24 But then it turns out under cross examination we find out
25 that those antiterrorism guidelines for charities didn't even

1 exist until November of 2002, almost a year after Holy Land
2 closed. It turned out that the language that McBrien read to
3 you from those two footnotes wasn't even added until December
4 2005, after the Government had begun prosecution in this case,
5 four years after Holy Land closed.

6 Now three things are important about this. First, during
7 the time we are concerned about, the relevant time period, not
8 the time period that the Government wanted you to believe, the
9 Treasury Department had no guidelines for charities; none,
10 zero. They didn't exist. No formal guidance. And we know
11 from McBrien that when charities went to OFAC and asked for
12 guidance, as Ghassan Elashi did, they were referred to the
13 list.

14 Second, we also know that the Treasury Department felt
15 the need, after Holy Land was closed, to state in guidelines
16 that list-checking alone was not sufficient. It would have
17 had no need to make that statement, of course, if everyone had
18 known that beforehand.

19 And third, you can conclude from the fact that the
20 Treasury Department added, that language McBrien read, in
21 December '05, that the government put that language in the
22 guidelines specifically for the purpose of reading it to you
23 here in this court and trying to mislead you into thinking
24 those guidelines existed when Holy Land was in business. That
25 is fraudulent.

1 We saw how Agent Miranda manipulated the designation
2 process to gain an advantage her here, and now we see the
3 Treasury Department manipulating its antiterrorism guidelines
4 for the same purpose. It is not fair.

5 I am not going to discuss in detail, moving on, the black
6 hole of Elbarasse or Ashqar documents. I think Mr. Dratel
7 went into them and I want you to look at those documents. But
8 you know, there is something about the integrity of the
9 evidence that you should be very, very concerned about in this
10 case. Unsigned, undated, handwritten documents that have
11 never been seen or commented upon by Ghassan Elashi that are
12 being used against him can't form the basis of proof beyond a
13 reasonable doubt. And you have seen that instruction.

14 But a couple of the Elbarasse documents are of note here.
15 Elbarasse No. 4 talks about apparatuses. And these are
16 documents that the Government keeps shoving under your nose.
17 Well, Ghassan Elashi is nowhere in there.

18 Elbarasse No. 10, the central chart of the committee that
19 the Government wants you to believe is mapping out the
20 members. We don't know whether it is the Central Committee,
21 or the Palestine Committee, but it is a committee. Ghassan
22 Elashi appears nowhere on that either.

23 Elbarasse No. 8, where, you know, it was -- Ghassan
24 Elashi was supposed to be visiting Britain to study the
25 possibility of forming a central committee affiliated with the

1 apparatus. And I asked Agent Burns, "Well, who did he -- Did
2 he go? Who did he see? What did he do?" She couldn't tell
3 us. Okay. It means nothing.

4 That global phone chart board, one of the many colorful
5 charts that the Government has shown you, there is one call
6 between Ghassan and Marzook coming from Marzook to Ghassan.

7 No FISAs on Ghassan, his home not searched, InfoCom not
8 wiretapped, even though the Holy Land was subject to
9 surveillance from '94 to '01.

10 Let's talk a little bit about the witnesses, whom you
11 have heard other lawyers talk about the witnesses. And, you
12 know, I want to talk to you a little bit about the material
13 support of terrorism charge and what you have got to find.
14 And I am going to try to break it down not to be confusing.

15 But before you can find Ghassan guilty beyond a
16 reasonable doubt of the crime of material support of
17 terrorism, pursuant to the law that Judge Solis read to you
18 yesterday, and you are going to have, as His Honor has told
19 you, a copy of that law, those jury instructions. Those jury
20 instructions need to be your guide. They need to be the gold
21 standard. You need to find that the zakat committees were
22 operating under Hamas' direction or control. You need to find
23 that beyond a reasonable doubt. Or if it was organizing,
24 managing, supervising, or otherwise directing the operation of
25 Hamas' personnel or resources, you need to find that. And the

1 Defendant knew that the entity to which the Defendant made the
2 contribution was operating under Hamas' direction or control,
3 or that it was organizing, managing, supervising, or otherwise
4 directing the operation of Hamas' personnel or resources.

5 That is a lot, I know. But who did the Government bring
6 to prove that to you? Because that is the centerpiece of
7 their case. Who did they bring? Someone whose testimony,
8 this is an expert now, and an expert has got to give you
9 testimony that is reliable, is the product of reliable
10 principles, methods based on sufficient data, not colored by
11 personal agenda or prejudice. That is what an expert is
12 supposed to do. Okay? And the Government, they could have
13 canvassed the world, ladies and gentlemen, to find a real
14 expert on zakat committees; one who did scholarly research,
15 not just on weekends and after hours; one who would tell us
16 his real name so we can determine what his background is and
17 we can check his credentials for you.

18 One who did not have an agenda or a vested interest in
19 the outcome of this very trial; one who was not employed by
20 the very entity that has given rise to the humanitarian crisis
21 that the Holy Land Foundation responded to; one who is not a
22 component of the Israeli occupation.

23 But the Government didn't do that. They brought you Avi,
24 the anonymous Israeli Security Agent Avi. Now, as you
25 learned, we don't know his identity, and you don't know his

1 identity, and because of his anonymity, you, you the jurors,
2 were deprived of a thorough cross examination about his
3 background. Wouldn't you have wanted to know that? Wouldn't
4 you have wanted to find out who this guy really was? They
5 could have canvassed the world for an expert and they gave you
6 Avi. And you just have to trust Avi?

7 Now, could that kind of testimony coming from an
8 anonymous witness, who has got a vested interest in the
9 outcome of a case, ever, ever be reliable enough to convict
10 someone beyond a reasonable doubt? And the answer to that is
11 of course not. Of course not. And if you don't believe Avi,
12 you cannot convict in this case, because he is their witness
13 that they brought to show you that these Hamas zakat
14 committees were under the control -- these zakat committees
15 were under the control of Hamas.

16 Now, he has got with his very own instruction, we
17 learned. Credibility of witnesses. Okay? And you saw a
18 little bit about that instruction credibility of witnesses. I
19 don't know if that is blurry. Is it blurry or is it okay? I
20 can't see.

21 Now, Avi, who is specifically mentioned in this jury
22 instruction, isn't that great? Look at this. He is
23 specifically mentioned. Okay? And here is the law when you
24 are looking at Avi. This is what you need to consider. "You
25 have heard the testimony of Avi who testified as an expert

1 witness under an assumed name. Avi testified under an assumed
2 name because Israeli law requires this for security reasons."
3 Yeah. Okay. So much for independence. Okay?

4 "You may consider that Avi testified under an assumed
5 name in determining the credibility or weight to give to his
6 testimony." Meaning you cannot believe him at all in
7 considering the fact that he testified anonymously. And if
8 you believe that Avi is not credible, that he has got an
9 agenda, if he is prejudiced and his testimony is so colored,
10 you can disregard it. Right? And especially if you believe
11 that he lied to you here in this courtroom, that he lied, you
12 can completely discard his testimony.

13 Now, what if Avi did lie? What if he lied on the witness
14 stand to you? Are there any consequences to that? Are there?
15 Of course not. He can't be prosecuted for perjury. Because
16 guess what. We don't know who he is. When he took that oath
17 he took it under Avi. Who is that? Who is that? That oath,
18 that is meaningless to Avi. In this American courtroom it
19 means a lot. The oath to tell the truth should have
20 consequences. This are no consequences to Avi.

21 But guess what, ladies and gentlemen. In this courtroom
22 Avi did lie. He lied right here, and he lied because he has
23 an agenda, and you have heard how he has manipulated evidence.
24 And you saw him. And that is up to you to determine, because,
25 you know, it is not just what someone says. It is how they

1 act. All right? And in cross examination when we were cross
2 examining him, if you recall, he would constantly say, "Well,
3 I need to see the document." He never said that in direct.
4 He never said that. Maybe it is because he was so well
5 rehearsed. I don't know. But you are entitled to take that
6 into consideration.

7 Even Mr. Jonas acknowledged that Avi has a mission. Avi
8 has got a mission. Unlike any other witness, Avi has a
9 mission. And do you know what that mission is? That mission
10 is to protect Israel. In this case such a mission to protect
11 Israel is horribly misplaced on the shoulders of an expert who
12 should only be testifying to you free from any sort of a
13 mission.

14 Now, Avi is no expert, but he had a little trouble with
15 the truth.

16 Your Honor, do you want to stop here because I am
17 going --

18 THE COURT: Keep going a little bit longer. We
19 haven't been in here an hour yet.

20 MS. MORENO: This is Jenin Zakat No. 6. Now, if you
21 remember, Jenin Zakat No. 6 was a videotape taken, seized by
22 the IDF, according to Avi when Ms. Shapiro was questioning
23 him. Okay? And I am not going to put it on the elmo for you.
24 I am just going to read it to you. But here is Ms. Shapiro
25 talking to the anonymous Avi, and she says to him, "I want to

1 play Jenin Zakat No. 6. You know, this is a videotape. Do
2 you know where this videotape came from?"

3 And he says to her, "This videotape was seized by the IDF
4 on November 9th, 2004 at the committee, the zakat committee of
5 Jenin." That is what he said on direct.

6 And then she says, "Do you know what kind of a ceremony
7 is going on here?"

8 And he says, "This is a summer camp that -- It is a
9 girls' summer camp that is documented in 2004 and seized in
10 Jenin zakat committee offices." Okay? Seized from the Jenin
11 zakat committee. All right? And this was in -- what was she
12 trying to do with all of this videos and what have you? She
13 is trying to show that the mere possession of the zakat
14 committee of these videos and these posters and these key
15 chains are all -- and they are associated with Hamas show that
16 the committee is Hamas. That was their point. All right?

17 Then what do we find out? We find out that in fact in
18 cross examination I asked him, I said, "All right. Let's talk
19 about Jenin Zakat No. 6. That is a video of a school
20 ceremony. Do you remember that?"

21 And he said, "I think so." "I think so." He had just
22 seen it, you know, an hour before, but he thinks so.

23 And I said, "Well, now, the whole video was not played
24 for the jury. Correct?" All right? And he had to agree.
25 Had to agree with me, because he knew where I was going.

1 And I said, "Because you have seen the whole video, and
2 just a portion of it was played for the jury. Would you
3 agree?"

4 And he said, "Yes."

5 And I said, "All right. We are going to play a portion
6 and there is not going to be any sound." And I asked him to
7 pay attention to the sashes that the girls were wearing and to
8 the colors and the banners, and they played that. And I said
9 to him, "Now, that is not Hamas. Right?"

10 And he said, "It is Islamic Jihad." He had to admit.
11 Not Hamas. Some other organization.

12 So I said, "So this is a ceremony that doesn't have
13 anything to do with Hamas. Right?"

14 And he said, "No, that is not accurate."

15 But I said, "Well, we have seen no Hamas flags in this
16 portion."

17 And he said, "No."

18 And I said, "That is because you have seen this video and
19 you know that this is not Jenin zakat committee ceremony.
20 Right?"

21 And you know what he says now? Now he says, "Well, I
22 testified it was taken from the al-Qassam Society in Hebron
23 that at this time was supported by the Jenin zakat committee."
24 Okay? Which is not really what he said.

25 So on the one hand he said the video was seized from

1 Jenin because that fits the agenda, that fits the theme, it
2 fits the lie. But in cross examination, because now we are
3 looking at other parts of the video that he can't deny, now he
4 is trying to get out of it and he says, "Well, I testified it
5 was taken from the el-Quassam Society in Hebron that at this
6 time was supported by the Jenin zakat committee." Huh? He
7 never testified to that. Nowhere can you find that. Look at
8 your notes. Okay? Nowhere can you find that. All right?

9 So he also said that Operation Defensive Field -- he said
10 Operation Defensive Shield only went into centers of
11 terrorism. That is what he said. Now, remember Doctor
12 McDonald? Doctor McDonald discussed those centers of
13 terrorism. Remember that? And he said some of them were like
14 YMCAs without the pool and that these were archives and
15 repositories of Palestinian culture and folk music and
16 costumes.

17 But you don't have to believe Doctor McDonald. Major
18 Lior. Okay? Major Lior, the Government's other witness, said
19 that the Operation Defensive Shield soldiers went into
20 orphanages and schools centers of terrorism? Yes. They are
21 centers of terrorism to someone like Avi. They are to someone
22 like Avi. Okay?

23 In Philly No. 13 -- And just to show you, here is Avi
24 saying, "Yeah, the Operation Defensive Shield was focused on
25 those offices and places, centers of terrorism." Centers of

1 terrorism. That is what he said. Okay?

2 In Philly No. 13 -- Have you seen sometimes when the
3 witness doesn't like a part of the document they try to
4 disavow it or distance themselves from it? You are entitled
5 to take that into consideration. Okay.

6 In Philly No. 13, this was a discussion of -- someone was
7 talking about all the zakat committees and if they had a
8 presence. Remember? Have a weak presence, presence,
9 whatever. Just as Mr. Westfall pointed out that Avi was quick
10 to deny, he was going to deny the baby Yehia Yehia Ayyash,
11 because that didn't fit into his agenda of saying that the
12 children of martyrs, especially someone like the engineer,
13 would be getting a lot more money from the Holy Land
14 Foundation because the Holy Land Foundation supports these
15 what Avi humanely calls special segments. Okay?

16 Of course, when he was shown the child, the name, and the
17 amount of money, he could not, he could not acknowledge that.
18 He couldn't accept it. So he denied the child.

19 He did the same thing with this particular document. He
20 was talking about the Nablus zakat committee, and Avi is all
21 over the place on the Nablus zakat committee. And he said --
22 And I said to him, "Now, you said that the Nablus zakat
23 committee since 1991, the point of no return, has been
24 controlled by Hamas. That is what you said. And you have
25 also relied on this Philly No. 13 speech that this person is

1 giving to further bolster your opinion. But in that speech
2 that gentleman doesn't say that about the Nablus zakat
3 committee. Okay?" And I said, "The person said in reality,
4 'We as Islamists have a weak presence, a weak presence in
5 it.'" Philly No. 13, the Nabus zakat committee. And I said,
6 "Do you remember that?"

7 And he said, in typical Avi style, "If you want to show
8 me." Okay?

9 So I said, "You don't remember that?"

10 And I said, "I don't know the document by heart." Of
11 course he knew it in direct. Direct he never said, "If you
12 want to show me," not once. So I pointed it out to him. I
13 put it on the elmo and I went sentence by sentence and I said,
14 "And then I said the next sentence is, 'In reality we as
15 Islamists have a weak presence in it.' Do you see that?"

16 And he says, "I can see it."

17 And so I said, "Does that refresh your recollection about
18 what this person said?"

19 And now Avi says, "Well, of course, I'm not taking for
20 granted every document unless I check other sources."

21 Now, this is the very same document he was relying on
22 with Ms. Shapiro. He didn't have a problem then. But when he
23 saw that there was a part of the document that didn't fit into
24 his agenda, into his mission. Okay? He had to deny it.

25 So I said to him, "So this doesn't fit into your

1 opinion."

2 And he says, "Well, I didn't say that. It was quite
3 accurate, but still every detail should be checked."

4 So then I said, "So this is accurate?"

5 And he said, "I didn't say -- "

6 And I said, "You didn't say that either." He didn't need
7 to say it because he was playing. He was playing.

8 This -- You know, this hearts and minds issue, you have
9 to really think about what that means, ladies and gentlemen,
10 because Avi says a few different things. Okay? He says a few
11 different things. He says that Muslims, that this was an
12 overt secret. I don't know what that means. An overt secret.
13 That Muslims in the community, Palestinians in the community,
14 they knew, they knew that those zakat committees that were
15 controlled by Hamas, they had the inside word, but nobody else
16 had that word.

17 Then he said that it was Muslims around the world. Okay?
18 He kind of expanded that. But they are keeping a pretty big
19 secret, don't you think? That is a pretty big secret to
20 keep--Muslims all around the world, 1.2 billion Muslims
21 keeping a secret like that from the United States and
22 Europeans. You know, this theory, this hearts and mind theory
23 makes no sense from Avi--a secret to some but not to others,
24 public yet private.

25 Everyone knew, though, from 1991, everybody knew from

1 1991, the point of no return, that these zakat committees were
2 controlled by Hamas. He also says that, too. Right? Because
3 that fits into one part of his theory. Okay? But there is
4 absolutely no evidence, not an interview, not a live witness
5 who has told you, who has told you that they were won over,
6 that their hearts and minds were won over by Hamas' control of
7 aid distributed to them.

8 And remember Avi and Matthew Levitt didn't even bother to
9 talk to a single person who received such aid. Don't you
10 think that would be important and compelling? It is not true.

11 You know, Mr. Jonas in his closing said, "If someone
12 feeds you, you will do what they want from you." And I am
13 quoting him. It is interesting.

14 Mr. Westfall touched upon this as well. If the hearts
15 and minds theory is so applicable here, if winning the hearts
16 and minds of people were reduced to some bread and water, if
17 it was so very easy, one wonders why the Israelis didn't feed
18 the Palestinians. If they were interested in winning the
19 hearts and minds of the Palestinians, why didn't they provide
20 for them.

21 I questioned Avi -- tried to question him specifically
22 about control, control of the board in the zakat committees.
23 If you could make sense of his answers, I commend you because
24 I could not, because he was all over the place. I asked him
25 specific questions about that, and he gave a variety of

1 answers that were inherently contradictory. And that is the
2 person who you must depend upon, you must accept his
3 testimony, accept his credibility, to find Ghassan Elashi
4 guilty beyond a reasonable doubt of the material support of
5 terrorism charge and the other charges, because they all rise
6 and fall with that charge, ladies and gentlemen.

7 Now, the credibility -- Here we go. Here is the
8 credibility questions. Okay? This is in your jury charge.
9 You have probably seen this before, but it is that important
10 that I need to discuss it with you again. All right?

11 So did the person impress you as honest? I think I have
12 answered that question for you. Did he have any particular
13 reason not to tell the truth? Yes. He is on a mission,
14 ladies and gentlemen, to protect Israel. Does he have a
15 personal interest in the outcome of this case? Yes. Does he
16 have a relationship with either the Government or the Defense?
17 Well, obviously with the Government, but he doesn't have a
18 relationship with us because we don't even know who he is.

19 Does he have a good memory? Only when he wants to. Only
20 when he wants to have a good memory. Did he have the
21 opportunity and ability to understand the questions? Well,
22 you saw that. Had no problem in direct, but always had a
23 problem with cross examination. And does his testimony differ
24 from the others? Absolutely.

25 And while I am on the subject of Government witnesses,

1 there is something to compare between Avi and Levitt.

2 Shall I continue?

3 THE COURT: Let's go until 12:45.

4 MS. MORENO: Okay. Here is my little comparison
5 chart. I don't know if you all can read that, but I hope you
6 can. All right. So what do we find out about the comparisons
7 between Avi and Levitt? Avi never read a book on zakat
8 committees and Levitt never wrote a book on zakat committees.
9 Avi researched on the weekends and after hours and Matthew
10 Levitt told you that he didn't study zakat committees.

11 Neither Avi nor Levitt set foot in a zakat committee.
12 Okay? Matthew Levitt actually told you boldly, almost
13 proudly, he didn't feel the need to. That is astonishing.
14 That is an astonishing testimony.

15 Neither one of them polled Palestinians. Never spoke to
16 the community. Well, Matthew Levitt says he spoke to
17 prisoners. Okay? Neither one of them speak Arabic. Avi
18 wants to ignore the list, the law, and Matthew Levitt says
19 there is just not enough time in the day to designate all
20 those nasty committees.

21 They both had great colorful charts, but from both the
22 charts, the lifecycle of the activist and all of that, what is
23 missing? What is missing from both charts, and not
24 surprising, is the occupation. That is what is missing.

25 And then Avi, of course, had this extra special skill

1 that he could smell Hamas in Nablus, although the evidence
2 says that, quite frankly, that they had a weak presence in it.
3 But you know, if you want to rely on Avi's ability to smell
4 out these organizations, okay.

5 I can can't add too much about Matthew Levitt. He didn't
6 tell you one thing about the so-called control exercised by
7 Hamas. He hasn't studied the zakat committees. Only Avi says
8 this. Only Avi says this.

9 These zakat committees, as Edward Abington told you, were
10 apolitical. Makes sense that they would have to be. To be
11 apolitical in such a politically charged environment does not
12 mean that the people who volunteered on these committees might
13 have had political points of view, but the integrity of the
14 zakat committee, the integrity had to be in tact for the
15 community to trust them.

16 I want to move to the area of need--need--which is what
17 the Holy Land responded to. Now, even Matthew Levitt had to
18 admit, because he wrote it in his book, the desperate need
19 among the Palestinian people. Let's talk -- What are we
20 talking about here when we are talking about -- you know, you
21 hear about orphans and wheelchairs. What is going on in that
22 place?

23 Here is what is going on. Three-fourths of Palestinians
24 during this relevant time period lived below the poverty line
25 of \$2 a day. Okay? Unemployment rate in the occupied

1 territories, above 33 percent. As of 2003 a third of the
2 Palestinian children under the age of five suffer from chronic
3 malnutrition. This century the infant mortality rate was 40
4 deaths per 1,000 live births, and throughout the period of the
5 military occupation from 1967 to 2005, the Israelis have
6 consistently failed to provide essential services to the
7 Palestinians.

8 What did Edward Abington tell you, who was there, who
9 worked? He was our representative. He was our eyes and ears
10 on the ground. He said that Gaza has 80 percent -- eighty
11 percent of 1.1 million Palestinians live in refugee camps. In
12 the West Bank, 60 percent of them live in refugee camps. And
13 this is generational--children, parents, grandparents. Now,
14 that is the kind of need that we are talking about here. Avi
15 calls it special segments, whatever that means.

16 I want to turn briefly to the deportee evidence in this
17 case. The Government relies heavily on this deportee
18 evidence, that in 1992 Holy Land supported these people. And
19 Ed Abington told you that actually 1400 people were deported,
20 but only 400 or 415 were put in Lebanon. All right? And you
21 saw videos. You saw videos of those guys. They were in
22 tents.

23 This was considered by the international community to be
24 the grossest form of collective punishment. Grossest form of
25 collective punishment. And as you heard, the international

1 community condemned this act, along with the United States,
2 because, you know, as a people we don't believe in the exile
3 of people.

4 So many humanitarian groups responded with aid including
5 the Red Cross, and the Holy Land Foundation was one of them,
6 just one of them. The Government wants you to hold the
7 provision of aid and support against the Foundation.

8 And the Government even tried to create a false
9 impression of who had been deported, and I think one of the
10 lawyers mentioned it, but, you know, let's -- This is Defense
11 Exhibit No. 1417. You know, if they're not redacting
12 transcripts they are just cutting sentences off midstream. So
13 in that video one of the men who is there says, "And some
14 brothers did not belong to any group, but they got used to
15 praying at the mosque and they grow their beards, so they
16 arrested them. We consider this probably an assault; not just
17 on the land of Palestine, but on all Muslims worldwide." And
18 the international community agreed, agreed with that. And not
19 only that, but I think that Ed Abington discussed that as
20 well.

21 So while the Holy Land did support the deportees and
22 their families, as many charitable organizations did, it did
23 it in response to the humanitarian crisis that Israel created,
24 not in support of Hamas. And in addition, as Holy Land's
25 records and tax returns for 1992 and '93 demonstrate, the

1 support to the deportees was but a part, a small part of the
2 expansive charitable work that the Foundation did during that
3 time.

4 Another example is the Holy Land Foundation's work with
5 orphans. Okay? We are talking about need now. The
6 Government tried to portray the Holy Land as showing a
7 preference for the children of martyrs by showing you a couple
8 of orphan applications out of the thousands it found in the
9 Holy Land Foundation. This is great. They bring you two
10 orphan applications. Why? Because they want you to see that
11 well, Saddam Hussein gave money to a particular family, and
12 that somehow that Saddam Hussein gave money to the family or
13 to the children of someone whose father has been killed or
14 died, and so did the Holy Land, that that proves their case
15 about Hamas. No. Just anything to dirty up the issues in
16 this case.

17 And what do we see? You have them in evidence. HLF
18 Search No. 184. And you will be able to see that these
19 children, these children whose fathers were -- One of them the
20 father, according to -- and it says in the document just never
21 returned one day. He went out for provisions and he just
22 never came back. He never came back. And you know what? The
23 Holy Land Foundation was proud, was proud to support families
24 like that. So you have that and you can look at those. HLF
25 Search No. 184, and No. 183.

1 THE COURT: Are you at a good stopping point?

2 MS. MORENO: Yes, thank you.

3 THE COURT: Let's take a lunch break. Let's take an
4 hour. So be back in one hour.

5 (Whereupon, the jury left the courtroom.)

6 THE COURT: Be back about ten till.

7 MR. JONAS: Your Honor, just real quick, last night
8 the Government and Defense went through all the Government
9 exhibits to make sure everything was correct, and we sealed up
10 our boxes, initialed them, and they are ready to go.

11 We haven't had a chance to do that with the Defense
12 boxes. We talked about doing it through lunch, but I am
13 really hungry.

14 THE COURT: We can do that afterwards. We won't get
15 the exhibits to the jury until in the morning, so we can do
16 that tonight.

17 (Lunch recess.)

18 THE COURT: Ms. Moreno?

19 MS. MORENO: Thank you, Your Honor.

20 May it please the Court.

21 Good afternoon, ladies and gentlemen. I have got 30
22 minutes left. I am going to use every single second I can to
23 talk to you and to win your hearts and minds.

24 Where we left off, I was talking to you about the orphan
25 applications, and you are going to have these back in

1 evidence. Right here, this is Government's Exhibit No.
2 203.16. These are the originals. Take a look at them. Take
3 a look at the kind of work that Holy Land was doing for a
4 period of time.

5 This is what you are going to see. This is those special
6 segments that the Holy Land Foundation was supporting. Her
7 name is Asma. Here is Sumia. And in these orphan
8 applications you are going to see these photographs and you
9 are going to see their registration cards. In the 21st
10 century, imagine people have registration cards. Here is
11 Unra, and you are going to see that in these binders. Okay.

12 And you are going to see information about how these
13 children lost their fathers. I think I mentioned that. Heart
14 attack, meningitis, stroke, accident, illness. The life under
15 occupation is very, very, very hard.

16 You are going to see things like this from the Holy Land
17 Foundation where it says "To be assigned." Do you see that
18 little notation? Because, of course, all these orphans and
19 children were assigned to different donors. So you are going
20 so see that. I invite you to please look at these
21 applications. They are very, very important.

22 Now, in the category, and we are talking about need here,
23 and in the category of cross examination, quite frankly, that
24 was bewildering, Mr. Jonas was cross examining Wafa Yaish, and
25 he asked him about photographs--there had been some evidence

1 of photographs--of home supplies being carried across the
2 street by workers for the Holy Land Foundation. And I think
3 you recall there were some photographs of mattresses and maybe
4 like little butane gas set-ups, and maybe there were
5 photographs of refrigerators and washing machines, and Mr.
6 Jonas asked -- here was his question. "So this means they
7 have running water and electricity. Right?"

8 And again in his examination of Mr. Yaish, Mr. Jonas
9 pointed out that some orphan applications that he pointed to
10 had indicated that the, quote, financial situation was good;
11 the clear implication being that these people, really they
12 didn't have a need.

13 So I am wondering, and this is in evidence you will see
14 this, Abu Muharam walking down the street. Okay? In the
15 occupied territories. You might have seen this. Here you go.
16 This is another family that the Holy Land Foundation
17 supported. And there you see that the front door is a torn
18 curtain, because this is how these people live, these people
19 that Mr. Jonas seemed to be implying, "Well, if they had
20 running water and electricity, that is enough."

21 And here you have Exhibit No. 711. It is that same
22 scene, but here is the door, and here is the little girl and
23 the workers from the Holy Land Foundation. And here is
24 another example of the kind of essentials of life that the
25 Holy Land Foundation provided.

1 Now, one hopes that the Government understands that, you
2 know, you may have electricity and you may have water, but you
3 may still be in dire need. If you recall Mr. Jacks' stunning
4 cross examination of Edward Abington, he asked Mr. Abington
5 whether the size of the families -- Remember that? That the
6 size of the families had anything to do with the need, which I
7 thought was a very unusual question. And Mr. Abington said
8 no, because, you know, it doesn't matter how big the family is
9 if they don't have a job.

10 So one hopes that the Government understands that if you
11 have electricity and running water but you don't have a job,
12 it means you don't have any money and you don't have any food.

13 Even Mr. Shorbagi said, even Mr. Shorbagi, poor old Mr.
14 Shorbagi -- Remember him? Didn't he look like a defeated guy?
15 You know, he is still working off his plea deal. That is what
16 Mr. Shorbagi is doing. Remember Mr. Shorbagi when he was
17 talking about what he experienced as a Palestinian? And he
18 said that the occupation was the daily bread of the
19 Palestinians. What did he say? He said, "If you leave people
20 with no hope, they will do terrible things."

21 And I asked him, "Would you agree with me that feeding
22 people, giving them water and books and education, gives them
23 hope?" And that is exactly what the Holy Land Foundation was
24 doing.

25 I want to talk a little bit about former consul general

1 Edward Abington. Now, you know, I am going to spend two
2 minutes of my precious time talking about his background,
3 because guess what. We know, we know in this courtroom who
4 Edward Abington is, unlike somebody else. And you know who I
5 am talking about. Edward Abington--30 years in the State
6 Department as a diplomat abroad, American Consul General. He
7 worked for the CIA. He was a Pentagon assistant chief of
8 staff. He worked for the National Security Agency. He was
9 the Chief of Mission, the President's personal representative
10 dealing with foreign governments; the eyes and the ears of the
11 United States in Jerusalem and the occupied territories.

12 He read and he spoke Arabic. He was vetted and approved
13 by the White House. He was the primary official to deal with
14 Arafat on a daily basis. And he helped negotiate agreements
15 between the Israelis and the Palestinians.

16 Now, he actually started his career he said in Tel Aviv,
17 and he had been in the government for 30 years. You know, why
18 is that important? Because you want to know the background.
19 Right? Of somebody who is telling you what they see and what
20 they know. And Edward Abington, our guy, our guy there knew
21 what was going on.

22 And he came here for free. He was not being paid for his
23 testimony. Remember that? And he does not have a dog in this
24 fight either. Because remember, he was loyal, working for and
25 a lobbyist for the bitter rival, the bitter foe of Hamas. He

1 was working for the Palestinian Authority, close to Yasser
2 Arafat. But according to Mr. Jonas, who wants you to put your
3 stake on Avi, who, as I told you, we don't know who he is,
4 according to Mr. Jonas, former Consul General to Jerusalem,
5 Edward Abington did not know you know what. And I am going to
6 go with Mr. Dratel and I am not going to repeat such an
7 insult. So Edward Abington doesn't know, but Avi does. That
8 should tell you all you need to know about the integrity of
9 this Prosecution.

10 He told you he received daily briefings by the United
11 States government; very strict instructions--stay away from
12 Hamas. You have heard it before. Think about that. Okay?
13 The Government wants to say, "Well, they didn't tell you one
14 way or another." Use your common sense. He had standing
15 instructions to have nothing to do with Hamas. Those were his
16 orders. And they are, he said, orders to this very day. And
17 do you think, do you think that if the zakat committees were
18 controlled by Hamas, zakat committees that he visited, by the
19 way, that none of the Government's witnesses visited, don't
20 you think that the United States government would have told
21 them, "Don't do that. That is a bad idea."

22 Don't be fooled. This is a diversion, a distraction.
23 They are playing with words. Ed Abington knew what was going
24 on.

25 He attended signing ceremonies. He had heard about the

1 Holy Land Foundation. Remember that? He said that it was --
2 what he knew about it, it is not that he was a friend to the
3 Holy Land Foundation, employed by them, or anything like that.
4 He said, "Yeah, I heard about them, and they had a good
5 reputation for implementation of projects that went to the
6 needy." That is what he said.

7 Now, he used a curious term, and I want to talk about
8 that because this goes back to the need issue. Edward
9 Abington talked about the daily life of the Palestinian.
10 Okay? And in his testimony he said that -- And this is all
11 about the need that the Holy Land Foundation was responding
12 to. This wasn't about politics, who is right and who is
13 wrong, although it is clear that people have real definite
14 opinions. That is clear. But the need that was created by
15 the occupation is what the Holy Land Foundation was responding
16 to.

17 And what did Edward Abington tell us about that? He said
18 that the Israeli military closed schools and universities
19 during the first Intifada, 1988 to 1991. And that some
20 children were home-schooled to an extent. So what did Holy
21 Land do? You saw the pictures of the backpacks and the
22 pencils and the projects. You saw that.

23 He talked about -- in talking about the need, he told you
24 that UNWRA, the United Nations agency set up just to help the
25 Palestinian refugees, provided 110 pounds of flour, 10 pounds

1 of sugar, 10 pounds of lentils and powdered milk.

2 And he told you, he told you that only Israelis, only
3 Israelis used the roads in their yellow-plated cars. Those
4 roads that were used mostly by settlers, and that an ordinary
5 Palestinian was subject to arrest if he drove on the road.
6 That is what he told you--a system of apartness.

7 He said that he saw these Palestinian posters everywhere.
8 Okay? And then the Government introduced this, Nablus Zakat
9 No. 5, the calendar. Remember this? Calendar. And because I
10 am blind I hope it is in focus, but let me just discuss it
11 with you very briefly. This, Mr. Abington said, represents
12 the daily life of the occupation. And the Government, when
13 they first discussed it, what did they do? They just asked
14 the witness to take a look at this one picture here in the
15 corner, this burned out bus. We have seen this bus before,
16 you know. This is what the Government is doing. They think
17 if they show you enough pictures of bombed out buses -- Okay?
18 Enough violence, something that Ghassan Elashi had nothing to
19 do with, something that Ghassan Elashi never discussed, never
20 supported whatsoever, if they keep showing you this that maybe
21 you will just be so inflamed that you will just convict. Or
22 so afraid. That is what they are trying to do to you.

23 But what he didn't do was he didn't talk about all the
24 rest of the photographs, you know, because for them it was
25 just enough that this was found at a zakat committee. Okay.

1 And so what do we see there? We see a child throwing
2 stones, a child in a demolished home, a child running, Israeli
3 soldiers with their weapons turned onto children? This right
4 here, this is about the violence against children.

5 Children don't need, ladies and gentlemen, in Palestine
6 and the occupied territories, the pathetic musings of Hamas to
7 orient them on who the enemy of their childhood is. Just look
8 at the pictures. But Mr. Jonas wants you to ignore those
9 pictures, just like he wants you to ignore the rest of the
10 evidence--just focus on that bombed out bus. That has nothing
11 to do with anybody here.

12 And then Mr. Jonas in closing yesterday -- This was
13 interesting. He said, you know, "No one is saying the
14 Defendants themselves committed violence." That is a quote.
15 He said, "No one is saying that money went directly to
16 purchase suicide belts or weapons." And then he added, "But
17 we don't really know because when money goes to the occupied
18 territories. Who knows."

19 Well, if the Government doesn't know, how are you
20 supposed to know? Okay? How are you supposed to know? Is it
21 enough for the Government to insinuate its way into a
22 conviction in this courtroom? Absolutely not.

23 Now, I want to talk to you very briefly about Doctor
24 McDonald, and I believe he was a remarkable witness. And he
25 gave context. He gave the back story. And he talked about

1 this one particular video that we have all been talking about,
2 this Jenin Zakat No. 6, and he told you about that it was a
3 dramatization of the woman being searched at the checkpoint
4 and that the Israeli settlers had their guns on -- the girl at
5 gunpoint, and that he had witnessed some of this stuff.
6 Remember that?

7 And I am just going to briefly read you one part of the
8 poem that that girl was telling these soldiers. And this is
9 important about this indoctrination theory that the Government
10 has, because what the girl said was, "You do not know me, O
11 soldier. You are afraid of my childhood; afraid of my small
12 fingers and of my dreams. You can grasp the collar of my
13 shirt, but you will not be able to grasp my heart." That is
14 what this little girl was saying.

15 And, you know, the Government would have you believe that
16 it is Hamas that encourages Palestinian children to hate Jews,
17 and, ladies and gentlemen, I believe that some of that is
18 correct. I believe that is absolutely right. That is
19 absolutely correct. The Government is correct in that.

20 But a fair review of the evidence and of the historical
21 record here suggests that really it is the daily life of the
22 occupation that robs children of any recognizable childhood by
23 American standards; that the child who is chronically
24 malnourished, whose father has no job, who lives in a refugee
25 camp, whose mother signs with her rations with her thumb,

1 friend's house no longer stands because it was bulldozed to
2 the ground, who waits for Abu Muharam from Holy Land to bring
3 sacks of flour or a mattress to sleep on, what love, what
4 affection, what respect can that Palestinian child possibly
5 have for Israel? It is really too much to ask.

6 Doctor McDonald said that the significance of the
7 depictions of violence in Palestinian music and performance is
8 that it allows people to process it, to transcend it, and get
9 beyond it. It is about the powerful and the powerless.

10 Now, I want to say that there has been a lot of evidence
11 in this case, and a lot of it is probably somewhat
12 complicated, but I can tell and I have faith and confidence
13 that you as jurors can use your common sense and
14 dispassionately, dispassionately take a look at the evidence
15 and the photographs and the testimony of all of these
16 witnesses.

17 And I want you to remember that it is the Defense who did
18 not have to produce a defense, did not have to produce a
19 single witness, it is the Defense who brought you the
20 witnesses who went to the zakat committees, who had impeccable
21 backgrounds, who testified under their own names. Okay? And
22 it is the Government who presented a case to you that I
23 suggest to you is quite the contrary.

24 To digress for just a moment, I want to tell you that
25 Ghassan Elashi, I am confident you will find that the evidence

1 does not tell you, does not show you that he supported Hamas.
2 And if you find that to be true, you need to understand that
3 if you acquit him on the material support of terrorism, which
4 you should, which you must, considering the evidence in this
5 case, then you have to acquit him of the other charges, the
6 money laundering and the tax charges. It all rises and falls
7 together. I think Ms. Duncan had said that to you. It all
8 rises and falls on the same evidence.

9 You know, we have heard about the First Amendment in this
10 case, associational evidence and the discussion of free
11 speech. You know, I mean, it was so important that the
12 founding fathers put the First Amendment first. They put it
13 first. And they put it first at a time when, quite frankly,
14 you would think the second amendment should have gone first.
15 They put free speech and freedom of association and the
16 freedom of worship, freedom of religion first. That is how
17 important it is.

18 And when you are looking at these conversations and you
19 are looking at these videos, I want you to keep in mind that
20 very, very important instruction that was already read to you.

21 I also want to say that you know, it is very interesting
22 the way Mr. Jonas ended his closing argument. He said that
23 the Holy Land Foundation, the charity, the charity that
24 supports all of these kids, he said that they don't help
25 widows and orphans; that they create widows and orphans. And

1 so I want to play you just a minute of a tape.

2 (Unidentified tape played.)

3 MS. MORENO: This is the Balbisi family. And if you
4 recall, this is a family interviewed by the Holy Land
5 Foundation whose father, the head of the household, was an
6 ambulance diver. You remember, she says, "I am the widow
7 Balbisi and her husband was Martyred. And how was he
8 martyred? He was an ambulance driver driving the ambulance to
9 rescue a child, and he was killed. And that is the family of
10 Mr. Balbisi. And I asked Agent Burns to take a look at this.
11 Remember? And I said, "Did you see any holes in the roof?"
12 Remember that? There are the holes.

13 "No, I didn't see that." Okay.

14 And so my question to Mr. Jonas is, "Who creates the
15 widows and orphans? Who is that?" That is not the Holy Land
16 Foundation. For the widow Balbisi it was the Israeli Defense
17 Force soldiers. And I wonder, ladies and gentlemen, where are
18 the families going to go now? Where do these children go?
19 Where do these people go for help now that the Holy Land
20 Foundation no longer can help them? Do they go to the
21 government of Israel? Does the cruelty and the cynicism of
22 this Prosecution inspire any hope that these people will be
23 helped?

24 Let me tell you that when I sit down Mr. Jacks gets a
25 chance to give a rebuttal, a summation, and I don't have a

1 chance to answer. And that is the way it should be, because
2 those are the rules, and they are right, because they have the
3 burden of proof.

4 If Mr. Jacks -- I want you to be, and you were already
5 asked this, but it is your responsibility that when Mr. Jacks
6 gets up and he starts playing these videos, and he starts
7 pointing to sentences in documents that the dates of which we
8 don't know, who wrote them, really what is the context, what
9 do they really say, I want you to question that. If he plays
10 these videos about the children, don't be swayed. Don't allow
11 the Government to inflame your emotions. Think to your
12 yourself, "What would Doctor McDonald say about that?" And
13 then you have got to wonder who is really exploiting the
14 children in this courtroom.

15 I want you to closely scrutinize the integrity of his
16 arguments when he gets up. Is it a rehash of discredited
17 questionable evidence. He is going to talk to you about Avi.
18 Is there any need anymore?

19 You have a duty, ladies and gentlemen, to deliberate.
20 But if you have fairly and carefully evaluated the evidence
21 and you are not persuaded, you must vote your position no
22 matter what. Every count is important. You must be
23 persuaded. And it is the law. You must be persuaded beyond
24 every single reasonable doubt as to every single element of
25 the charges in this case. And if you have a single reasonable

1 doubt, you must acquit.

2 Go back to the law. Go back to the jury instructions.
3 Let them be your guide. Take your time. Take your time.
4 Such an important job.

5 As I said in the beginning of this, Ghassan is an
6 optimist. He believes in the system, in the process. We are
7 asking you to be courageous in this case. You know, this case
8 is going to say a lot, a lot about us as a people. And you
9 took an oath that requires that you must take into account the
10 views of your fellow jurors, and that is important. But after
11 hearing those views if your conviction still compels you to
12 vote, you hold fast in that because, you know, when you go
13 back into that deliberating room, thank God without lawyers.
14 Right? And thank God without a judge. The system leaves it
15 up to you. It honors you. Only you can preserve the
16 integrity of this process.

17 And you know, ladies and gentlemen, I always say this to
18 juries. This is the one time in your life when you know that
19 your vote really, really matters. It really counts. So we
20 are asking you to be courageous and look beyond the fear and
21 beyond the prejudice and beyond the politics of this cynical
22 Prosecution.

23 Ghassan Elashi did all he could to support the
24 humanitarian aid and comply with the law. Ghassan did not
25 support Hamas. He supported his own people.

1 I am asking you to use your common sense and your sense
2 of justice, and the evidence requires and justice compels you
3 to return a verdict of not guilty on behalf of Ghassan.

4 Thank you.

5 THE COURT: Thank you.

6 Mr. Jacks?

7 MS. MORENO: Your Honor, may I make a brief
8 application at the bench before Mr. Jacks?

9 THE COURT: All right.

10 (The following was had outside the hearing of the
11 Jury.)

12 MS. MORENO: This is really for Jim so I should wait
13 for Jim.

14 Your Honor, we would object to Mr. Jacks going into any
15 argument or evidence about the InfoCom/Marzook evidence. We
16 believe it is improper rebuttal. Mr. Jonas didn't go into it.
17 I didn't go into it. I am talking about the double jeopardy
18 issue. So we believe that would be improper rebuttal.

19 THE COURT: I don't want to hear a lot of argument.
20 I don't want to stop in the middle of jury argument to hear
21 this. Make your objections.

22 MS. MORENO: And double jeopardy, Your Honor.

23 THE COURT: Those are overruled.

24 (The following was had in the presence and hearing
25 of the jury.)

1 THE COURT: Mr. Jacks.

2 MR. JACKS: Thank you, Your Honor.

3 Your Honor, how much time?

4 THE COURT: You have an hour and a half.

5 THE COURT: If I reach that point, would you tell me
6 when I have 15 minutes left?

7 THE COURT: All right.

8 MR. JACKS: Thank you.

9 Members of the jury, I am going to be the last lawyer you
10 hear from, and I am sure that is good news to you. It is
11 actually good news to me.

12 I want to add my thanks and appreciation that was
13 extended to all of you. You have just done stellar service.
14 You have stayed with this case throughout its length. You
15 have been attentive and taken notes and been here every day,
16 and as has everybody else said, we both, we all recognize that
17 and are grateful and appreciative of that.

18 My purpose is to again sum up some of the evidence that
19 was presented during this case, but also to respond to some of
20 the points and arguments raised by Defense counsel during
21 their arguments.

22 And I have to tell you, the Judge tells you in his
23 instructions that what lawyers say is not evidence, and that
24 your decision is to be based upon the evidence, and that is
25 the documents or the videos or the testimony from the witness

1 stand. That is what you are supposed to render your verdict
2 on.

3 But I have got to tell you, in these last couple of days,
4 listening to some of the points or some of the statements made
5 by Defense counsel, when you try to write down or recall some
6 of the things that they said, and whether or not those things
7 were in evidence, there were so many that I just gave up
8 trying to recall or write down those that I don't believe were
9 ever testified to or that there was ever any evidence of that.

10 And my answer to you is use your memory. We on behalf of
11 the Government, we are perfectly comfortable with you using
12 your recollection of the evidence and what you heard and what
13 you perceived from the exhibits and from the witnesses. And
14 if you, in listening to Defense counsel, heard something and
15 in your mind you thought, "I don't remember that," or "I don't
16 remember that being said that way," you are probably right.
17 And so, just use your own recollection and your own skills and
18 memory to recall what the evidence actually was.

19 Now, one of the things that we as lawyers can do is
20 discuss the evidence with you and talk about the inferences
21 that you can draw the from that evidence. And so we will be
22 doing that, or I will be doing that during my portion of this
23 summation.

24 I want to talk just briefly about the Court's
25 instructions, and there is a few instructions that I think can

1 be explained to help you understand and to do your job as
2 jurors.

3 As the Judge said when he read this long document to you,
4 you don't have to memorize it. You are each going to have
5 your own copy of it when you go back there to deliberate. But
6 in terms of some of the things that are important, that the
7 Government submits that are things that you should look to to
8 help you in making your decision -- And you have heard several
9 times in this case about the presumption of innocence and the
10 burden of proof, and admittedly these Defendants came into
11 this courtroom cloaked with the presumption of innocence, but
12 that presumption of innocence can be removed by evidence. And
13 when you begin your deliberations, you are entitled to
14 consider that evidence, and to decide that, you know, "That
15 presumption of innocence is gone now. I have heard evidence
16 and I now know that these Defendants are guilty."

17 Now, they also talked about the burden of proof, and I
18 just want to read again for you what the Judge says in terms
19 of the burden of proof. And it will be on page 3 of the
20 charge, and he says, "While the Government's burden of proof"
21 -- Excuse me. "The Government has the burden of proving that
22 a Defendant is guilty beyond a reasonable doubt, and if it
23 fails to do so you must acquit that Defendant. While the
24 Government's burden of proof is a strict or heavy burden, it
25 is not necessary that a Defendant's guilt be proved beyond all

1 possible doubt. It is only required that the Government's
2 proof exclude any reasonable doubt"--and that is in
3 quotes--"concerning that Defendant's guilt. A reasonable
4 doubt"--again in quotes--"is a doubt based upon reason and
5 common sense after careful and impartial consideration of all
6 the evidence in the case."

7 Now, the Defense attorneys have talked about and used the
8 term beyond all reasonable doubt, beyond every reasonable
9 doubt, beyond any reasonable doubt. The term is actually
10 beyond a reasonable doubt. But the consistent word in all of
11 those examples that they give you is reasonable. And in his
12 instructions the Court tells you to use your common sense.

13 You know, there is a reason that juries in this country
14 aren't strictly made up of lawyers. There is several good
15 reasons for that, but the point is that juries in this country
16 are made up of people drawn from the community, from all walks
17 of life, all backgrounds, all experiences, people who are
18 expected to bring their common sense into the courtroom and to
19 apply a layperson, if you will, layperson's knowledge and
20 common sense. That is the objective in this process.

21 And while the Defense attorneys would hope and expect
22 that you would simply be overwhelmed by this process, the
23 truth of the matter is that this is a process that goes on
24 every day in courtrooms all over this country. And these kind
25 of decisions are made by people just like you all over this

1 country every day. And that is all the Government is asking
2 for. The Government is happy with your ability and your
3 common sense being the deciding factor in this case.

4 The Court talks about other factors that you can
5 consider, and talks about there is an instruction in
6 here -- Let me, first of all, go to the evidence regarding
7 conspiracy and the charge regarding conspiracy. The principal
8 charges in this case, the main charges, are three conspiracy
9 charges--a conspiracy to support Hamas as a specially
10 designated terrorist, a conspiracy to support Hamas as a
11 foreign terrorist organization, and a conspiracy to launder
12 money.

13 And the Judge talks to you about what it is that makes up
14 a conspiracy, and a conspiracy is simply an agreement among
15 two or more people to violate the law; and that if more than
16 two people are in that conspiracy, then that is simply a
17 larger conspiracy. But let me just take an example that I
18 think is one that most people can understand and relate to.

19 If you talk about a conspiracy to distribute drugs, you
20 have got a person that may be the kingpin of that conspiracy,
21 and he is the person that is in charge of the overall
22 conspiracy. He may be the person that is the one that goes to
23 the supplier. He may be the one that gets all of the ultimate
24 money. And then you move down from that and you have
25 individuals that maybe are in the distribution chain of that

1 drug conspiracy. And then you have people that are in the
2 lower distribution chain. Maybe they are the ones in the
3 crack house who are actually selling it, or you have the
4 person on the street corner actually selling it. And then
5 even below that you may have people that are simply lookouts;
6 people that their involvement is very minimal but,
7 nonetheless, they are a part of that conspiracy and contribute
8 to it.

9 As Mr. Jonas said, under a conspiracy, if you are in a
10 conspiracy and you know what the object of the conspiracy
11 is--in my example the object is to deal drugs--then you are in
12 that conspiracy. Now, it may be that your punishment
13 shouldn't be the same because all you are was a teenage kid
14 who was acting as a lookout, but you are in that conspiracy.
15 As he said in for a penny in for a pound. That is the nature
16 of the conspiracy.

17 The conspiracies alleged in this case are that these
18 Defendants agreed with one another that they were going to
19 work together to provide support for Hamas, both as an SDT and
20 then as a foreign terrorist organization; and also that they
21 conspired to launder money. And I agree with all the other
22 lawyers that the money laundering conspiracy is dependent upon
23 the conspiracy to support an FTO and the conspiracy to support
24 an SDT. And the money laundering conspiracy is applied in
25 this sense: That because what they were doing was illegal,

1 the money that was raised from that illegal organization or
2 operation becomes contraband, and that money, when you engage
3 in transactions with that money, that is money laundering. So
4 that is the basis of that money laundering charge; that the
5 money that was raised by this organization was sent overseas
6 in an ever international transaction. Therefore, the crime of
7 money laundering was committed.

8 And not every Defendant is charged in the substantive
9 money laundering counts, but the four Defendants, with the
10 exception of El-Mezain are charged in the money laundering
11 conspiracy, again because they were a member of this
12 organization, they contributed to the commission of that
13 crime. And that is the nature of the evidence that supports
14 that money laundering conspiracy.

15 I want to talk to you a little bit about the
16 conspiracies, and the Defense attorneys have made a great
17 point about the evidence and the fact that it predated January
18 of 1995, or that it predated October of 1997. And let me
19 again, if I could, use this example of a drug conspiracy.
20 Let's just assume for the sake of illustration or argument
21 that drug dealing was not against the law, and you had this
22 group of people that are engaging in drug dealing and drug
23 distribution, and they have an organization. And then on
24 January 25th, 1995 the Congress passes a law and says, "Drug
25 dealing is illegal from this day forward." Anything they do

1 after that day and continuing what that organization did
2 before is a violation of the law.

3 And the same is true with the October 1997 date. The
4 evidence shows that these Defendants were doing the same thing
5 that they were doing before January of 1995 or October of
6 1997. They just continued to do it after the Congress made it
7 against the law. And that is the reason that all this
8 evidence was presented to show you the background of what
9 these Defendants were doing.

10 And of course, Defense counsel wants to argue with you
11 that, "Well, that has nothing to do with anything." I would
12 submit that it has everything to do with everything. You
13 know, the Defense attorneys, and I would imagine that this
14 would be clear to you by now, but their tactic, if you will,
15 it is kind of like a jigsaw puzzle. You buy a jigsaw puzzle
16 in a box, you know, 100 pieces, 200 pieces, 500 pieces,
17 whatever, and on the box you have a picture of what the puzzle
18 is supposed to look like when it is finished. The Defense
19 attorneys, their style and their tactic is to take that
20 puzzle, dump it out of the box and take a piece and say,
21 "Well, this isn't a picture of a tree," or "This doesn't show
22 anything," and then take another piece and say, "Well, this
23 doesn't show anything." Well, in and of itself that may be
24 true, but that is not what this trial is about. This trial is
25 about you taking all of the evidence and considering all of

1 the evidence as it relates to one another. But they don't
2 want you to do that.

3 You notice how they take every single item and either it
4 doesn't, you know, show that they were supporting Hamas -- You
5 know, the Elbarasse documents. "Well, you know, that doesn't
6 say anything about supporting terrorist attacks or whatever."
7 They take everything in isolation and make the argument that
8 it doesn't prove anything. And the Government will readily
9 tell you, "No, it doesn't."

10 And the witnesses, Agent Burns and Agent Miranda, they
11 candidly said, "No, that in and of itself does not prove the
12 entire Government's case. You have to look at all the
13 evidence."

14 Well, they don't want you to look at all the evidence.
15 They don't want you to look at all the evidence together and
16 say how this piece fits with this piece, or how this piece
17 supports that piece, because that evidence shows that these
18 men are guilty of exactly what they are charged with.

19 Let me talk to you a little bit about the Elbarasse
20 documents. And those were some of the documents that were
21 presented by Special Agent Burns. And you recall those
22 documents were found in August of 2004 in the search of the
23 house of this man Ismail Elbarasse in northern Virginia. And
24 the Defense talked a little bit about them, but mostly they
25 talked about the fact that, "Well, they are not signed, or

1 they are not dated." And Agent Burns gave you the benefit of
2 her investigation and she could tell you from her testimony,
3 she could say, "Well, you can tell that this one occurred
4 around this date because it makes reference to this
5 event." Some of them did have the names of the persons that
6 authored those documents. So you have to understand that
7 Agent Burns was able to in her testimony tell you about the
8 significance of those documents and what they show.

9 And what they show is remarkable. You know, I think it
10 was Ms. Moreno, maybe Mr. Dratel talked about these documents
11 and how they came from some black hole. I submit to you that
12 those documents are some of the most compelling and important
13 documents that had been found and that show how a terrorist
14 organization seeks to work within the United States. I submit
15 to you that those documents are going to be studied and
16 discussed by analysts and scholars for years to come because
17 of what they show.

18 Is there any doubt when you look at those documents, as
19 Mr. Jonas said, and when you consider all of the evidence,
20 that these men seated over here are a part of Hamas in
21 America? Not just supporters, not just Palestinian-Americans
22 who, you know, feel like Hamas is a pretty good thing; you
23 know, not just sympathizers. Those documents show that these
24 individuals and this organization that we have spent two
25 months talking about was created by Hamas to be its

1 fundraising mechanism in the United States. All you have to
2 do is look at those documents.

3 Who is the person in charge of the Palestine Committee?
4 A person that you never heard of I submit before you came into
5 this courtroom, but you will be hearing his name in your head
6 for weeks to come probably--Mousa Abu Marzook. He is the head
7 of the Palestine Committee. And you also know from a document
8 found in Abdel Haleem Ashqar's house in Oxford, Mississippi, I
9 don't know if you recall Agent Miranda testifying from this
10 document that talked about Hamas is meeting with Iran, and
11 Agent Miranda read from a part of that document and it talks
12 about that -- And that was a Hamas document, by the way, found
13 in Ashqar's house. But it talks about Marzook going to meet
14 with the Iranians in 1990.

15 So in 1990 Mousa Abu Marzook, this person that is
16 supposed to be a graduate student in the United States,
17 according to Hamas' own document is the head of a delegation
18 for Hamas meeting with the Iranians. And then there is
19 another document that talks about him going to some other
20 Palestinian or North African Islamist summit as the head of
21 the Hamas delegation. Can there be any doubt these men are a
22 part and in fact were the leaders of Hamas in the United
23 States, and that their goal was to be the fundraising
24 mechanism for that organization? There can be none.

25 And then on top of that, what do you look -- What else do

1 you have to, you know, confirm that to you? Look at the
2 videos. You know, look at all those videos of what they are
3 doing at these conferences or festivals. It seems like every
4 song, virtually every song was about Hamas, about support for
5 Hamas, about martyrdom, about jihad, about killing Jews.

6 You know, these men have, and through their lawyers, have
7 sat here and talked about what great humanitarians they are,
8 and how they are only looking out for the children, and that,
9 you know, all they want is what is best for the children. But
10 at their festivals they talk about other human beings as being
11 the sons of pigs and monkeys. What kind of people do that.

12 You know, they talk about the blessed Intifada. The
13 Intifada is essentially war, and it is war between the
14 Palestinians and the Israelis. And they glorify it. They
15 talk about -- Mr. Westfall got up here and, you know, it is
16 interesting, Ms. Duncan the day before said, "Mr. Jacks is
17 going to get up here and wrap himself in the flag," yet then
18 they get up here and talk about it being Veterans Day and
19 whatever that has to do with this event and what it -- wanting
20 you to attach a significance to that when you begin your
21 deliberations. That is fine. You know, it is Veterans Day.

22 And Mr. Westfall chose this occasion to talk about Mr.
23 Odeh and his comment to Mr. El-Mezain about this suicide
24 bombing and said, "Well, they were soldiers." They were human
25 beings. They weren't in a battle. They were at an

1 intersection either riding somewhere or hitchhiking or
2 whatever. But he seeks to excuse or justify or minimize the
3 fact that they were soldiers and, therefore, that excuses or
4 minimizes what it shows about Abdulrahman Odeh and his
5 feelings.

6 You know, he says Mr. Odeh is an aid worker and he cares
7 about children and he cares about the needy and all that.
8 Well, there is another side to him, and you heard that side.
9 It is a side filled with hate and a side that takes joy and
10 pleasure in the killing of other human beings.

11 You know, this whole case, the Defense -- The Government
12 told you even during jury selection, maybe you will remember
13 back to this, when we talked about this case is not about the
14 Palestinian-Israeli conflict. You know, it is not to try to
15 resolve that conflict. It is not a college course. You know,
16 this is not a meeting of the U.N. or anything else like that.
17 This is a criminal trial in the United States. And the
18 Government sought to adhere to that scope. But how many times
19 have you heard about the brutal occupation from these
20 Defendants? That is their mantra. That is their excuse.

21 And let's think about that for a second. You know, out
22 of one side of their mouth they say, "We are an American
23 charity. We are apolitical. We are like the Red Cross. We
24 do not have -- You know, we are just concerned about needy
25 people." There couldn't be anything further from the truth

1 when you hear what goes on at their conferences, what goes on
2 at their festivals. Is that apolitical? Of course not.

3 You know, they want to tell you and they took every
4 opportunity that they could to try to show to you or to claim
5 to you that whatever difficulties there are with the
6 Palestinian people, it is all the fault of Israel. And the
7 Government didn't real respond because, like we said, we don't
8 represent the government of Israel. We are here because there
9 has been a violation of United States law. But if we had
10 tried to, or if we were so inclined, or if it was relevant, do
11 you think we could have presented to you the other side of
12 that argument?

13 And we will tell you right now, there is two sides to
14 that issue. No question about it. It has been a struggle
15 that has been going on for decades, for centuries. But there
16 are two sides to it, and you have only heard one side from
17 people who are accused of violating United States law. And I
18 submit to you the evidence has shown beyond a reasonable doubt
19 that they have violated United States law.

20 But do you think that we could have brought you people
21 from Israel to talk about, you know, what it is like there,
22 and why these security measures are in place? And, you know,
23 it is amazing they spent a great deal of time a talking about
24 Mr. Abington and what a credible witness he is. I don't know
25 if you noticed it or not, but Mr. Abington, whenever he would

1 talk about something that happened to the Israelis or within
2 Israel, he would talk about there were some bombings, some
3 attacks as though you just glossed over it. "Some? You mean
4 like three, four?"

5 You know, the deportation, you know, that was just
6 outrageous, according to the international community. But
7 what led up to that? Two or three kidnappings or murders of
8 soldiers.

9 You know, the state of Israel came into existence in
10 1948. It was created by the United Nations. And it was there
11 as it existed, as created by the United Nations, until 1967
12 when it was attacked, and retaliated and succeeded in six days
13 in defeating the armies of Egypt, Jordan, Syria, and even
14 Iraq. This tiny country was able to defeat those enemies.
15 And in the course of that, they conquered this territory.

16 But before that, the West Bank, that was Jordan. The
17 city of Jerusalem was divided in half. East Jerusalem was
18 Jordan. West Jerusalem was Israel. Gaza was a part of Egypt.
19 They conquered that territory partly as a security measure.
20 You can imagine living in a country where people are minutes
21 away that they don't just want you dead or under their
22 control. They want your country wiped out. Try to think
23 about that for a minute. So they keep this land as part of a
24 security measure.

25 They eventually negotiate a treaty with Egypt and they

1 give the Sinai back to them. Egypt didn't even want the Gaza
2 Strip. I am sure Israel would have been glad that they take
3 it, but they wouldn't take it. They sign a treaty with
4 Jordan, and Jordan doesn't want the West Bank.

5 So, you know, here you have a country that is trying to
6 resolve these issues. They negotiate the Oslo Accord with
7 Yasser Arafat, and it is supposed to be this agreement where
8 we have a phased in peace agreement, but Doctor Levitt told
9 you Hamas will not let that happen. You know, every time that
10 there is progress to be made or every time that it looks like
11 there is going to be some progress, what does Hamas do? They
12 carry out an attack.

13 You know from Doctor Levitt that eventually, in 2005 I
14 believe it was, Israel just completely removed its forces from
15 Gaza. There were some settlers that lived in Gaza. They
16 forcibly pulled those people out and said, "It is yours." Did
17 that stop? No. What does Hamas do? It still fires rockets
18 into Israel; still is looking for more powerful, more accurate
19 weapons to fire into Israel. You have to ask yourself, where
20 is the anger directed at Hamas that will not let things calm
21 down enough for a peace to succeed.

22 And they don't. Hamas in its charter, which has never
23 been changed, says, "We will never agree to peace with Israel.
24 Peace talks are a waste of time." And this is the
25 organization that these men are a part of. There can be no

1 question about that.

2 You know, you can talk about free speech, you can talk
3 about political expression, and that is fine. They are not
4 here because of their speech or their expression. Their
5 speech and their expression shows their state of mind and
6 shows their position, but they are here because they raised
7 money in this country and sent it to Hamas, and that is
8 against the law.

9 You know, some people talk about, "Well, why is this a
10 concern to us?" Well, first of all -- And Doctor Simon talked
11 to you about a little bit. He was in the Clinton
12 administration when this executive order was first passed.
13 And you should take note of this. This is not a republican or
14 democratic issue. This has been a law under democratic
15 administrations and republican administrations. And Doctor
16 Simon talked to you about the fact that these issues present a
17 threat to the national security of the United States.

18 First of all, I submit to you that the United States--we
19 are the United States, all of us in this room are a part of
20 the United States--and I submit to you that the United States
21 wants peace in the world; that that is the general attitude
22 and nature of the United States people. And the United
23 States, because of its power and the fact that most people
24 regard it as the only super power and that they look to the
25 United States to do something, that they are blamed if that

1 conflict doesn't get resolved. Other groups, other
2 governments, other terrorist groups, use that conflict to
3 blame the United States and say, "Because of that, you know,
4 we are opposed to you."

5 Now, the other part of this law, as far as why we should
6 be concerned, is the United States has a lot of ways that it
7 can try to do things in the world. One of it is militarily,
8 you know. And we have used our military against terrorist
9 forces. But there is also a way of financially, a non-violent
10 way that we can seek to prevent the proliferation and the
11 growth of terrorist groups. In other words, we may not be
12 able to be over there, but we can at least say, "In this
13 country you cannot raise money for those groups, and if you do
14 it is a crime." It is a non-violent way to try to affect what
15 is going on in another part of the world and to prevent this
16 country from being used as a platform.

17 But that is exactly what these men did. You know it from
18 the Philadelphia meeting. And I am not going to go through
19 everything that Mr. Jonas talked to you about, but in that
20 meeting they talked about the fact that -- And I believe it
21 was also in some of the Elbarasse documents, that these -- the
22 United States is a perfect place to do this, because it is
23 such a forgiving nation, because it is such a tolerant nation.
24 "We can come here. We can raise money. We can do it under
25 the guise of charity; not only that it is tax deductible to

1 our donors." They talk about that fact.

2 They also talk in the Philadelphia meeting about how they
3 are going to change their style; that they are going to have a
4 separate face, if you will, to the American public and another
5 face to the Islamic public.

6 There are so many things that I would like to respond to,
7 but I want to talk a little bit about some of the most
8 significant testimony. There was a great deal of argument
9 regarding the witness Avi from the Israeli Security Agency.
10 And as I sat there and listened to it, all I heard was, "Well,
11 he is Israeli and we don't know his full name," because under
12 Israeli law, quite frankly, people in his position are subject
13 to kidnappings or being killed. But you heard his testimony.
14 You could sit there. You could watch him being asked
15 questions. You could watch his answers. You could listen to
16 his answers. They were able to ask him about his background,
17 "Where did you go to law school? Where did you grow up?
18 Where did you go to high school?" Anything like that they
19 could have asked him.

20 And you heard him talk about how he performed his job;
21 and contrary to what Ms. Moreno says, not on nights and
22 weekends. When he said nights and weekends, that just means
23 that not only does he do it at the office during the day, but
24 he goes at night and weekends and does work as well. But you
25 heard his testimony and you heard them cross examine him, and

1 they never, never were able to refute his conclusions.

2 He talked about how he studied these committees. He
3 looked at what documents there were, what newspaper reports
4 there are, what is on the internet, what is on the television
5 stations, the Arab television stations. He looked at what the
6 Palestinian Authority said about these documents. He looked
7 to see where their money came from.

8 You know, they talk about the fact that the Government
9 had the ability to go get any scholar in the world to, you
10 know, be their witness. I submit to you that there is nobody
11 in a better position to tell you about who controls those
12 zakat committees than that man, because that is his full time
13 job.

14 And, you know, the fact that he is Israeli, okay. We
15 understand that. We can appreciate that. We understand that
16 there is animosity between Israel and the Palestinians. But
17 what about what he says and what about, you know, his
18 conclusions, and what about his research? They haven't done
19 anything to disparage that or to disprove that or refute that.
20 You know, where are all these experts if his conclusions are
21 wrong? They don't have to bring anybody, but they certainly
22 could. They can certainly bring a Hamas expert in here. Did
23 you see one? Did you see anybody, an expert on the other side
24 to refute what he told you? And if they did, I submit to you
25 that you would not find anyone that had done the type of

1 research that he did.

2 And they make a point, "He is Israeli; therefore, he is
3 biased; therefore, don't believe him." Well, let's think
4 about that for a second. Yeah, he is Israeli. He works for
5 the Israeli Security Agency. His job is to do his best,
6 because of the threat to his country. And this report that he
7 was testifying from, that wasn't done for this trial. That
8 was something done in his job as a part of his work for the
9 government of Israel. What does it serve the government of
10 Israel for him to make a false report or to falsely say,
11 "These are the places where Hamas controls and where Hamas'
12 social wing exists"? Why would that help the government of
13 Israel to have this false information?

14 Now, you know Hamas has a social wing. Everybody agrees
15 Hamas has a social wing. So how would it help the government
16 of Israel that Avi has come to the wrong conclusion about the
17 wrong organizations? The answer is it wouldn't.

18 Edward Abington, and you will be able to -- You can have
19 your own opinions and you can decide about his credibility and
20 biases and if you felt that he was trying to be a fair witness
21 and a witness that was calling it right down the middle. I
22 may have a moment to talk about him, but even Abington says,
23 "Yes, Hamas has a social wing." And you ask him, "Okay. What
24 is their budget?"

25 "I have heard anywhere from \$100 million to over a

1 billion. I don't know."

2 "Well, where does that money go? Where does that \$100
3 million go?"

4 "It has got to pay -- Okay. It goes to the needy
5 people."

6 "Well, what about the people that get it to the needy
7 people? Do they get a salary? How do they buy their clothes?
8 How do they pay their bills?"

9 You know, it takes money. This is something you have got
10 to remember. Hamas during the time frame that we are talking
11 about, they can't raise taxes. They don't get to collect
12 taxes. They are an organization that depends on money from
13 wherever they can get it. And you know from the evidence in
14 this case that they get a large part of it from this country,
15 from the Holy Land Foundation, which was set up to be its
16 fundraising mechanism.

17 But back to Mr. Abington. He even acknowledges that
18 Hamas has a social wing. He said it controls charities, it
19 controls societies, it controls schools, it controls clinics,
20 it controls mosques. He also said that, in talking about this
21 hearts and minds that the Defense said was never proven and
22 they don't understand, their own witness that they are so
23 proud of, Mr. Abington, said Hamas' social wing functions to
24 gather political support. That is its goal. Their own
25 witness told you that.

1 Now, what about Mr. Abington and his value as a witness?
2 First of all, he is not an expert witness. He was not
3 qualified as an expert witness. They did not claim him to be
4 an expert witness. You know that he was the American
5 representative to the Palestinian Authority from '93 to '97,
6 and that shortly after -- Not shortly. I mean the day after
7 he left the government, he goes to work as the lobbyist for
8 Yasser Arafat and the Palestinian Authority to the tune of
9 about, as he said, about four and a half or five million
10 dollars. And that is something you can consider in terms of
11 his bias. You know, is he interested in shifting blame from
12 his client so that his client is not really criticized for
13 the, as he said I think, a billion dollars a year that poured
14 into that country after the Palestinian Authority was created?
15 Where did that money go? Why is that money not being visible
16 and shown in improving the lives of these children, this
17 billion dollars a year.

18 But you know, he is brought in here and, you know, his
19 testimony, as I recall, and you can recall it as you heard it,
20 but he was never told that these zakat committees were Hamas.
21 He was never told that they were not. He was told, as he said
22 it, his expression to his people was, "Am I going to meet any
23 Hamas people today" when he goes to this location.

24 And he tells you that, you know, "I was not -- My office
25 was not clued in or the recipient of information from criminal

1 investigations or intelligence investigations." And you know
2 that this investigation of the Holy Land Foundation started
3 out as an intelligence investigation, and that that was
4 something -- and when I asked him, I said, "So you haven't
5 seen all of these phone calls, you haven't seen all of these
6 videos, you haven't seen these Elbarasse documents?"

7 "No. No. No."

8 And I won't be as forceful as Mr. Jonas was, but I think
9 it is fair to say that either he does not want to say, or he
10 was simply not able to say and was not in the loop.

11 Regardless, when you compare the research and the sources
12 that Avi looked at -- And the Defense could have cross
13 examined him all day and said, "Look. We want to see these
14 sources. Where did this come from? Where did that come
15 from?" And I have to tell you, it was remarkable to watch him
16 testify and say, "That came from an article in the al-Manar
17 newspaper on such and such a date," and he could, he had
18 incredible recall. And so they stayed away from that because
19 they don't want you seeing how thorough his research is. Ed
20 Abington had none.

21 You know, one of the things that they talk about, you
22 know, that if you don't believe Avi then you have to find
23 these Defendants not guilty. No, that is not true. You have
24 got Mohamed Shorbagi, one of their own. Now, you know, he
25 stole some money from his employer, but he is not my friend.

1 He is their friend and acquaintance. We didn't pick him.
2 They chose him to be their representative. So whatever
3 character flaws he had, they chose him first. You know, we
4 didn't.

5 But, you know, what does he tell you? And he is on the
6 inside. He said, "Yes, the IAP, the Holy Land Foundation,
7 they were a part of Hamas in America. I have attended these
8 conferences. I have been in meetings with Ghassan Elashi,
9 Mohammad El-Mezain, Shukri Abu Baker, and Marzook was there,
10 and Khalid Mishal was there, and they talked about what we
11 were going to do and what Hamas was going to do." And he
12 tells you, "We were sending money to Hamas. The money we
13 raised was going to Hamas."

14 And he tells you that everybody over there knows who is
15 Hamas and who is Fatah or PA. He even told you that his son,
16 who is now three years old, recently came back from Palestine
17 or from Gaza, and he said even he knows at this age, at that
18 young age. And, you know, the Defense, you know, scratches
19 their head over that, but the best analogy that I can come up
20 with is when you think about it, in an illegal organization it
21 is like the mafia. You know, you have got John Gotti, and I
22 am sure if you were to go up to John Gotti, or a scholar, you
23 know, doing research on the mafia were to go up to John Gotti
24 and said, "Mr. Gotti, it has been reported that you control a
25 mafia family. Is that true?"

1 "No, I am in the waste management business. I have
2 nothing to do with that." Okay. Well, that is what he is
3 going to tell you.

4 That is what Avi was telling you about with this overt
5 secret. Everybody over there knows this group is Hamas and
6 this group is the other side. You know, you don't want to
7 cross John Gotti, though, because despite what he may say
8 publicly, you know who he is and what he is about.

9 You know, they talk about the evidence in this case, and
10 I just want to go through some of the evidence in this case as
11 well.

12 Talking about the designation and the designation
13 process, and the fact that these committees weren't
14 designated, and I hope, you know, this was clear to you and
15 came across that the Defendants want to rely on this hyper
16 technical interpretation of this designation list.

17 And let's just stop and think about that for a minute.
18 You know, you have got a group of people that are supporting a
19 terrorist group, and they know from personal knowledge what
20 organizations are fronts for that terrorist group. Now, the
21 government hasn't caught up yet, but they know because they
22 are a part of that group. So is it their position that by
23 giving money to groups that they know are a part of that
24 terrorist group, that they are in the clear because the
25 government hasn't designated that particular front

1 organization yet? That is not the law, and, you know, to take
2 this hyper technical interpretation --

3 Let's just play it out to its logical extension, if you
4 will. You heard Mr. McBrien from OFAC say that, you know,
5 there is a limited amount of time and there is limited
6 resources, and the government is seeking to get the most bang
7 for its buck. And Hamas has been designated, and certain top
8 leaders of Hamas have been designated, but that does not mean
9 that it is okay to give to anybody else that is associated or
10 affiliated with Hamas.

11 And he in fact testified that when they had this meeting
12 with Ghassan Elashi and these other people in 1995, Mr.
13 McBrien explained that the list is not the be all and the end
14 all. That is the starting point.

15 You know, the Defense makes the point that, "Well, these
16 press releases talk about the fact that this puts the world on
17 notice that this organization is one you cannot do business
18 with." And that is true when you are talking about the world,
19 in the sense of the world of people who are not involved as a
20 part of a terrorist organization. If you are talking about,
21 you know, you have got this bank and the bank looks at the
22 list and says, "You know what? We can't open up an account
23 for this group because they are on this list," it does put
24 that part of the world on notice. But, you know, they don't
25 need OFAC to tell them what organizations are controlled by

1 Hamas. They already know from their connections to Hamas.
2 And this is the point that, you know, I hope you understood.
3 Because if you look at the schedules that the Government has
4 given to you back before Hamas was declared as an SDT or FTO,
5 who were they giving to? They are the fundraising arm of
6 Hamas in America. There is no question about that. And who
7 were they giving to? The same committees that are named in
8 the indictment. So they are giving to them both before Hamas
9 is designated so they wouldn't be concerned about it then,
10 Hamas gets designated, and they continue to give to the same
11 organizations because those are the organizations that Hamas
12 has set up to be the mechanism.

13 You know, getting back to what Mr. Abington said, you
14 know, he talks about the fact that, "Yeah, they have got
15 charities, they have got societies, all these things." I
16 guess we just picked the wrong ones. Darn. I just wish we
17 had -- Of course he couldn't tell you, he couldn't tell you
18 which ones they are, but he said there is no question that
19 they have charities, they have societies, they have mosques,
20 all of that stuff, but I guess, according to him, we just
21 guessed and picked the wrong ones. But he can't tell you
22 which ones they are. That is who they are hanging their hat
23 on.

24 You know, and to go back to this designation process, Mr.
25 McBrien talked about the fact, "Well, there is limits and

1 there is common sense limits. As soon as you designate an
2 organization or a subpart of an organization, so you go and
3 designate the Jenin zakat committee, and the next day it
4 changes its name. It says, 'We are not the Jenin zakat
5 committee. We are something else. You know, we are not on
6 the list,' so the Government would be forever chasing its tail
7 in that regard."

8 And, you know, do you think that was something the
9 Defendants were aware of? Well, let' see. Let me refer you
10 to El-Mezain Wiretap No. 13. This is a conversation between
11 Ashqar, the man from Oxford, Mississippi, and the Defendant
12 El-Mezain. And they are talking about a report and a phone
13 call. And Mr. El-Mezain says, "They said that these
14 charitable organizations spend -- these ones which are abroad
15 spend on thousands, tens of thousands of people, maybe
16 hundreds of thousands."

17 And Mr. Ashqar says, "We -- Until now, Rabin"--the former
18 Israeli prime minister--"and his government are shutting down
19 even the charitable organizations, the health ones."

20 And Mr. El-Mezain says, "All of it. All of it. All of
21 it. All of it."

22 And then they talk about this Jamal Salim who called him.
23 And Mr. El-Mezain says lastly, "They still threaten and making
24 noise and stuff. I said, 'My man. It is okay. The name
25 changes and the work continues as is. And if it did not come

1 through point A, it will come through point B.'"

2 MR. DRATEL: Your Honor, I will object.

3 MR. JACKS: "'And God knows all secrets'" --

4 THE COURT: Hold on a second. We have an objection.

5 MR. DRATEL: It doesn't show who is speaking.

6 THE COURT: Overrule that objection.

7 MR. JACKS: MO is Mohammad El-Mezain. "'And God
8 knows all secrets. The situation is not scary, and it is not,
9 umm'" -- So they realize that, you know, you designate one
10 organization and all they have to do is change the name and go
11 to another. So you know, their notion that, "Well, if it is
12 not designated then we are in the clear," that is simply not
13 the case.

14 Talking about that notion and the fact that, you know,
15 what they were attempting to do -- And you will recall, I
16 don't have the transcript in front of me, but you will recall
17 the conversation where Shukri Baker and Ghassan Elashi were
18 talking about the statute. And Ghassan Elashi was so angry
19 and was talking about, "Well, I don't care about the law."
20 And then he would say, "Well, I will follow the law." And
21 then he would say, "I don't care about the law." And in that
22 conversation, if you will recall, he talked about, you know,
23 if they are going to designate these zakat committees that are
24 connected to Hamas, that will be -- that will affect thousands
25 of people. You know, unsolicited, nobody is talking about

1 this case, but on his own after he says that, he starts naming
2 off these committees. He starts naming off Qalqilya and
3 Tulkarem and the committees that are in this indictment.

4 Why was he thinking that they might be the committees
5 that are designated? How did he know that those were the
6 committees that were at risk? Because he knew which
7 committees they were contributing to and which committees were
8 controlled by Hamas.

9 You know, there is another tape that shows their
10 allegiance to Hamas and their concern for Hamas. You will
11 recall that there was an incident in New York where there had
12 been some kind of a terrorist attack, or an attempt at a
13 terrorist attack, and the reports were that these people were
14 connected to Hamas. And there was this telephone call between
15 Ghassan and Shukri, and he was just angry as could be over the
16 fact that think were saying it was Hamas. If you want to make
17 a note, it is Baker Wiretap No. 10. And he is so upset. And
18 you have to ask yourself, "Why do you care? Why are you mad
19 that some people are reporting that this group is connected to
20 Hamas?"

21 Clearly, the inference from the call that you can draw is
22 that he favors Hamas. He cares about Hamas. He doesn't want
23 Hamas being accused of doing anything in the United States.
24 In the call he talks about, you know, "It is Guiliani, the
25 bastard. He is a bastard, a Zionist." Last time I looked

1 Rudy Giuliani was Italian. But anyone that does not, you
2 know, go along or agree with their program, they are a
3 Zionist. They are a part of the conspiracy.

4 You know, Mr. Dratel talked about Mr. El-Mezain and the
5 fact that, you know, you didn't see any tapes of him after
6 1995 or '96, or whenever it was. And what do you know from
7 the evidence about why that might be? You know that at the
8 Philadelphia meeting they talked about changing their tone,
9 and they talked about changing the face that they are going to
10 put toward America.

11 You know, I don't think anybody even on the Defense side
12 talked about this security document. I would like to talk to
13 you a little bit about that. I don't think anybody addressed
14 that. You recall that security document? I believe it is
15 going to be InfoCom Search No. 35, I believe is the document.
16 And this document talks about the Foundation's Guidelines and
17 policies. Why does a charity need something like that? And
18 it talks about all this covert trade craft, if you will, for
19 an organization that is involved in what kind of activity?
20 You know, you have to wonder -- Okay. They asked some, "Did
21 they travel under different names, or did they use their real
22 name here or there?"

23 "Well, no, not that time."

24 But you have to ask yourself, you know, maybe that
25 explains why there are no videotapes of this time period. But

1 you know that he continued to raise money during that time,
2 because you have got Omar Ahmed telling Shukri how much to pay
3 him. This is in 1999 for all these trips he made. So you
4 know that he was continuing to raise money for the Holy Land
5 Foundation all the way through this time.

6 And you know from Mr. Shorbagi, he was coming to Georgia
7 to raise money for the Holy Land Foundation, and Mr. Shorbagi
8 told you, just to repeat it again, a person on the inside,
9 this is who we were raising money for-- Hamas.

10 And you know that this individual Fawaz Mushtaha, that he
11 apparently was trying to somehow follow this security manual
12 or something, he tried to bury -- He didn't try. He did bury
13 these tapes in his backyard and burned some of them in his
14 barbecue pit.

15 Do you remember the call between Mr. Abu Baker and Mr.
16 El-Mezain when the lawsuit had been filed, and this was early
17 on in the case, and he calls him and tells him, you know, "All
18 those documents, do you have any documents out there at your
19 house?" Mr. El-Mezain in San Diego at the time. And he says,
20 "You may want to take those documents and give them to the
21 lupine salesman," speaking in code. There is an example of
22 following the security document. And you know from Mr. Shafik
23 that in the Middle East the lupine salesmen, you give them
24 your recycled papers. You get rid of them. That was the code
25 that was being passed to Mr. El-Mezain. So the evidence shows

1 that they were taking steps to do exactly what they had been
2 told to do.

3 You know, Ms. Shapiro told you that when you begin this
4 case that it would be beneficial for you and that you should
5 try to think like a terrorist organization, and rather than
6 putting your mind to these things and say, "Well, I wouldn't
7 do it that way," that perhaps the best thing to do is think,
8 "Well, wait a minute. How would this individual try to do it
9 or how would this group try to do it?" And, you know, that is
10 important, because you have to look at this in the way that
11 the evidence shows that they were operating and the
12 precautions and the things that they did.

13 How much time do I have, Your Honor?

14 THE COURT: You have used about an hour and ten
15 minutes.

16 MR. JACKS: Thank you, Your Honor.

17 THE COURT: An hour and five minutes.

18 MR. JACKS: You have got -- I am just going to go
19 through some of the responses with regard to some of the
20 things that were raised by some of the Defense counsel.

21 You know, there was a point made about Avi and when he
22 was shown this list with Yehia Ayyash's son's name on it, and
23 that was his son. And what did Avi say? He said, "I am not
24 going to make a conclusion based on one thing. I am not going
25 to conclude simply on you showing me a list with one name."

1 And they try to turn that around and say that, "See, you can't
2 believe him." You know, all he is trying to do is to show to
3 you the care that he would go through before he would render a
4 conclusion.

5 There is no question that that was the son of Yehia
6 Ayyash that Odeh was supporting. I guarantee you he intended
7 to support him. And they want to make the point that, "Well,
8 Avi didn't say that it was his son because he was getting the
9 same amount as these other people." Well, yeah, maybe he was
10 getting the same amount as these other people, but you know
11 from the evidence that his father was regarded as a celebrity
12 and a hero. You think they had any shortage of money after
13 his father's death? You know, this was an honor for the HLF
14 to include him on their roles, even if it is only for \$50.
15 That is the significance of that. But the point about Avi,
16 that was just -- Avi's point was, "I am not going to say,
17 based on you putting a document in front of me, that that is
18 his son. I require further research." And I submit to you
19 that that is what you should draw from that episode.

20 You know, you know from the evidence that Mr. Odeh was at
21 these festivals. That was admitted and acknowledged. And you
22 know that he was a part of this organization. And you know
23 from his conversations with Mr. El-Mezain where his politics
24 lie and his loyalty to Hamas.

25 Now, you know, Ms. Cadeddu talked about certain things

1 with regard to her client Mr. Abdulqader, and she tries to
2 make the argument that the Government is only prosecuting him
3 because of who his brother is, and that actually was hardly
4 brought up by the Government in this case; some, but not to
5 the extent -- We are not prosecuting because of who his
6 brother is, but that is something you certainly would want to
7 know. That would be something that you would want to be
8 included in your decision-making process.

9 He is being prosecuted because he was a fundraiser and a
10 knowing fundraiser for this organization which he knows is an
11 organization for Hamas. You know, you have got the al-Sakhra
12 band. Go back to the Palestinian Committee documents, and
13 what do they show in terms of the connection between -- and I
14 will put it here. This is Elbarasse Search No. 10. Sakhra
15 Group.

16 Mr. Jonas pointed out to you I believe it was on Mushtaha
17 Search No. 1, that video from Los Angeles, the band on their
18 drum, or whatever you call, it says Islamic Association for
19 Palestine, Sakhra Group. This was a part of the organization.
20 This was a part of the Palestine Committee.

21 Do you recall the tape, and I don't have it right in
22 front of me but you will have it if you need it. Do you
23 recall the tape, I believe it was Mushtaha No. 2, I believe.
24 And in that tape you had Mahmoud Zahar, Mohamed Siam, Jamil
25 Hamami, three of the biggest Hamas leaders at the time, and

1 still, coming into room and who greets them and kissing each
2 of them on the cheek--Mufid Abdulqader. That shows the degree
3 of his involvement. Not so much his brother. The brother is
4 just kind of icing on the cake, if you will. But there is
5 ample evidence to show that he was a part of this group.

6 You know, Ms. Cadeddu got up shortly before Ms. Moreno
7 began her argument and said, "Well, I know the Government is
8 going to make a point about Mufid Abdulqader being at
9 Philadelphia, and I just wanted to" -- because as she brought
10 out through Mr. Shafik, Mr. Shafik said, "Well, I am 80
11 percent certain that I heard his voice in those meetings, but
12 I didn't put it down because that is not enough for me."

13 Well, forget about that. What about the hotel records?
14 He signed in there. And we are not talking about his name is
15 typed in. We are talking about he signed in. Were any other
16 band members at the Philadelphia meeting? Did you see any
17 other band members greeting and kissing Mahmoud Zahar, Mohamed
18 Siam, Jamil Hamami?

19 He is the one that is the inspiration, I suppose, or the
20 artistic inspiration for all of these festivals. You talk
21 about -- You recall Mr. Shorbagi in asking him, "Well, what
22 were these festivals like?"

23 "Well, they were speeches, and then there would be a
24 dinner, and then there would be fundraising, and then there
25 would be music."

1 "Okay. Who was the music?"

2 "Well, that was always Mufid's band." Always.

3 She talks about he was a volunteer. Well, the law
4 doesn't say you have to be paid before you can be guilty of
5 this crime. It doesn't matter whether you are doing it for
6 free or a thousand dollars or for whatever your band gets
7 paid. It doesn't matter. You know, it is not a defense to
8 say, "Well, I didn't get any money for doing this." He
9 probably would do it for free, because that is his sentiment.
10 That is who he supports. That is who he favors.

11 You know, we have got the records from Ashqar which talk
12 about the Palestine section in America. And you know what
13 that organization is about. You have seen all the documents.
14 You have seen -- And let me digress for just a moment. I
15 thought this was really surprising, but fairly accurate. Do
16 you recall the document that talked about -- It was a
17 Palestine Committee document that talked about the Movement in
18 America and what its goals were, and it talked about
19 settlement in America. It was kind of a lengthy document.
20 And it talked about destroying America from within and
21 replacing it and its miserable soul. And you can remember the
22 language, I am sure, and you can find it when you go back
23 there. And they showed it to Doctor Esposito and said, "Well,
24 you know, what does this look like to you?"

25 He said, "This looks like something that came from a

1 terrorist organization, a radical terrorist organization."

2 And he said, "Well, it is not signed."

3 Well, actually it is. We do know who the author is. It
4 is Mohamed Akram. And I showed him where he could find that,
5 Mohamed Akram, a member of the Palestine Committee. And that
6 document clearly was disseminated to the members of the
7 Palestine Committee.

8 Well, let's just look at the Palestine Committee and see
9 -- This is Ashqar Search No. 1, and this is that list that was
10 found in Abdel Haleem Ashqar's house. And it lists the
11 Palestine Committee. And you can see and I submit to you that
12 these individuals are listed by rank of importance. At the
13 top Mousa Abu Marzook, no question that he would qualify as
14 the leader. Mohammed Akram is the second. Who is the fifth
15 person? Mohammad El-Mezain. He may look like somebody's
16 grandfather sitting over here, but he is a high ranking member
17 of the Palestine Committee. He is the one that was the most
18 successful and the front man for these fundraising events. He
19 is the one that they called the Sheikh. He is the one that
20 they used to generate the money that was raised by this group.
21 You also have Ghassan Elashi and Shukri Abu Baker.

22 There has not been any evidence to refute the claim about
23 what this organization is about. This organization, as I have
24 said more than once, was set up to be Hamas in America, to be
25 the fundraising mechanism for Hamas in America.

1 THE COURT: You are down to 15 minutes.

2 MR. JACKS: Thank you, Your Honor.

3 You know, Ms. Duncan yesterday talked about the Palestine
4 Committee, and what did she tell you about it? Well, it is a
5 loose association of Palestine, you know, individuals. Loose
6 association? You have got bylaws, you have got directives,
7 you have got orders being giving, you have got memos being
8 written.

9 She says, "There is no evidence that it was a secret
10 organization." Well, let's look at this. We have got
11 Elbarasse Search No. 35, a document entitled "The Trust." And
12 I want to zoom in a little bit and then I will position it.
13 You see that it is from the documents file for the secretariat
14 general. It is called "The Trust." It is dated October 1st,
15 1992. It says it is a special non-periodical bulletin, and it
16 talks about the pioneering role played by the Hamas movement
17 among the Palestinian people sectors. And it talks at the
18 bottom about, "The bulletin is specially for the brothers, the
19 Masuls of Palestine Committee in every country only. And it
20 is a trust in their necks. The brothers are to study the
21 bulletin in the periodical meeting of the committee and it is
22 not to be photocopied, meaning that the original copy should
23 remain the only one." Clearly a secret organization, clearly
24 an organization that doesn't want the rest of the world to
25 find out what they are about.

1 The last thing, or one of the last things that I want to
2 talk to you about is the Judge talks to you in his charge
3 about consciousness of guilt, and he talks about "Conduct of
4 the Defendant, including statements knowingly made and acts
5 knowingly done upon being confronted with evidence of a
6 possible crime, may be considered by you in the light of all
7 other evidence in the case in determining guilt or innocence.

8 "When the Defendant voluntarily and intentionally offers
9 an explanation to others, in or out of court, or makes some
10 statement tending to show his innocence, and this explanation
11 or statement is later shown to be false, in whole or in part,
12 the jury may consider whether this evidence points to what we
13 call a consciousness of guilt.

14 "Ordinarily it is reasonable to infer that an innocent
15 person does not usually find it necessary to invent or
16 fabricate an explanation or statement to establish his
17 innocence.

18 "Whether or not evidence as to the Defendant's voluntary
19 explanation or statement points to consciousness of guilt and
20 the significance to be attached to any such evidence are
21 matters within your province."

22 Let's talk about that. You know, these Defendants claim
23 that they are nothing but an apolitical charity interested in
24 nothing but providing help for needy kids. Then why is it
25 necessary to lie on documents when you are going to Saudi

1 Arabia and say that you work for a company that you don't work
2 for? Have you heard any explanation for that? You know, why
3 when you are giving a deposition -- Excuse me. When you are
4 filing a declaration connected with a lawsuit, why is it
5 necessary for you to lie about your previous association
6 saying, "I can't stand Hamas. I abhor Hamas. I would never
7 support Hamas." And then you go back and find out he has
8 written poems about Hamas, and he has had Hamas speakers come
9 to raise money for his organization. Why are those lies being
10 told?

11 You know, in the deposition, it sounds like that this
12 lawyer was pulling teeth to get him to answer these questions.
13 You know, "What is the relationship between you and Mr.
14 Marzook?"

15 "He is a donor. That is it. I don't know how he got my
16 home phone number. I am a celebrity; he is a celebrity," in
17 essence if you want to listen to that phone call with Gayle
18 Reeves. "He wanted to check out the organization that he was
19 putting his money into."

20 "So he has your home number?"

21 You know, why tell all those lies.

22 And Ms. Duncan I guess for the first time acknowledged
23 that, "Yeah, he lied." And what is the explanation? "Well,
24 he was scared." I can see why he would be scared, because to
25 tell the truth would reveal who he is and what he is about.

1 And what about Mr. El-Mezain? You know, in his whole
2 deposition they ask him about all of these people on the
3 Palestine Committee and about the IAP. And what does he say?
4 "Well, you know, we are not connected to them. We know them
5 and we do business with them but we are not connected with
6 them." Or all these other individuals, he doesn't mention one
7 word about the fact that they are in this organization that
8 is, you know, headed by Mousa Abu Marzook.

9 And clearly, if you recall, at the time of that
10 deposition these Elbarasse documents had not even been found.
11 I am sure that he thought he would never be called to answer
12 for what he said in that deposition.

13 Mufid Abdulqader, you know, when he is interviewed by the
14 FBI, why does he find it necessary to lie? They ask him,
15 "What does your family consist of?"

16 "Well, there is this brother, and this brother, and this
17 sister."

18 "Do you have any other brothers? Well, how about Khalid
19 Mishal? Is he your brother?"

20 "Oh, yeah."

21 "Okay. Has he ever visited you or been with you?"

22 "Yeah, he was in Oklahoma one time."

23 "Okay. Did you go to the MAYA convention that time he
24 was there?"

25 "Yeah, I did."

1 "What did he do?"

2 "I don't know what he did."

3 And you know from Shorbagi that he was there and saw
4 Khalid Mishal and Mufid Abdulqader, and Shorbagi said that was
5 one of those occasions that they had this secret meeting in
6 the closed room with these select people. But why does he
7 find it necessary to lie about it? Why does he find it
8 necessary to say, "I didn't know anybody at the Holy Land
9 Foundation." Not that -- It wasn't a question -- the question
10 wasn't, "Have you been a fundraiser for them?" The question
11 was, "Do you know anybody?" He says, "I didn't know anybody
12 until 1995 when I moved to Dallas." And you know that is a
13 lie because he is all over these videos, you know, prior to
14 that.

15 All of this activity and -- You know, something else
16 that, you know, I think needs to be talked about is with
17 Ghassan Elashi. You know, the fact that Ghassan Elashi talks
18 about, "Well, I am not a supporter of Hamas, and I abhor
19 violence," but what do you know -- And you can consider this
20 evidence to decide what was going on in his mind. What do you
21 know that he was doing from 1993 to 2001 in his company? He
22 was sending either \$1500 or \$3,000 a month to Mousa Abu
23 Marzook's family to take care of him and to support him. Now,
24 that is something that -- You know, that is not something he
25 is charged with, but that is evidence you can consider when

1 you are evaluating his intent and his knowledge.

2 Here is a man that is the head of a terrorist
3 organization, an organization that engages in terrorist acts
4 and picking out innocent individuals and blowing them up,
5 kidnapping them, shooting them, whatever, and these
6 individuals, Ghassan Elashi in particular, is sending him
7 money during all of this time. That is evidence that you can
8 consider when evaluating his intent.

9 You know, I know I have gone for quite a bit of time and
10 I know you all have been sitting here for a long time, and I
11 know that you are anxious to begin deliberating this case. I
12 want to just make a suggestion, and you can disregard it or
13 follow it if you want. But when you get back there, you know,
14 if you choose to, you can simply take a straw vote and see
15 where you are, and see what issues you agree on and what
16 issues you disagree on, and then move to focus on the issues
17 you agree on. That would be something that can help you in
18 organizing and doing your work, if you choose to do that.

19 You know, I am almost finished now, but I want to close
20 with again stressing, just like the Defendants did, how
21 important this case is and how important your verdict is, and
22 what it will say about whether or not organizations can come
23 into this country under the guise of charity and raise money
24 for a terrorist organization.

25 You know, you heard from Doctor Levitt, you heard from

1 Doctor Hoffman, and they talked to you about the significance
2 of this. You even heard from Mr. Abington who said that, you
3 know, Hamas uses its social wing to gather political support.
4 Someone smarter than me once said, "Before you can have an
5 Islamic state, first you have to have an Islamic Society."
6 And that is the goal. That is the goal. And you know from
7 Doctor Hoffman and you know from Doctor Levitt that that is
8 the goal of Hamas.

9 And Doctor Hoffman told you that terrorist groups, those
10 that don't have a social side don't succeed and don't last.
11 And Hamas -- every witness that knows anything about it has
12 told you that that is the biggest part of their organization.
13 And the fact that this is all, you know, supposedly for
14 charity and for need, that is fine. That is all well and
15 good. But it is charity or need with strings attached, and it
16 is charity or need which, at the end of the day, down the road
17 there is going to be a price to pay.

18 You know, one of the things that I think is important for
19 all of you to remember is -- You know, we have talked about
20 children and what children mean in this case, and there has
21 been a great deal of comment by the Defense, and I just want
22 to point out a couple of things regarding another way that
23 children fit into this case and what the overall objective is.

24 This is from Philly Meeting No. 5, and it is one of the
25 sessions at the Philadelphia meeting, and it is an

1 unidentified speaker but nobody disagrees with him. I will
2 just read it rather than trying to focus it on the screen.

3 It says, "We don't want the children of the community who
4 are raised here in schools and in Islamic schools and
5 non-Islamic schools to grow up surrendering to the issue of
6 peace with Jews. And, I mean, we don't see in ten years the
7 growing generations in America surrendering to peace with
8 Jews. Therefore, there must be curricula and teaching
9 materials which spread in Islamic schools and in weekend
10 schools the ones which teach children who attend American
11 schools."

12 That is what this organization is about. Mr. Abu Baker
13 said it himself, and I think it is illustrated throughout this
14 case by the actions of these Defendants. And I just want to
15 make this point to you. I submit to you that this Defense and
16 the presentation that has been given to you throughout this
17 trial, the groundwork for this position and this argument was
18 laid years ago in Philadelphia in 1993. They were looking
19 toward this day. If and when they were ever called upon or if
20 and when they were ever questioned, this is the position and
21 the place they would hope to be so that they could tell you
22 the same story that they have told others earlier throughout
23 the lifetime of this conspiracy.

24 As Mr. Baker said, "War is deception. War is deception."
25 And that is what they are attempting to do today with you.

1 Mr. Lewis, do you have that video? This is a Holy Land
2 Foundation video that I also think is one of the most relevant
3 and informative videos that you saw during this case.

4 (Whereupon, video was played while statements were
5 made.)

6 MR. JACKS: This is a video, it is a Holy Land
7 Foundation video, one that they recorded and that was kept by
8 them and found during the search of their materials. It shows
9 to be -- this is from the Ramallah zakat committee. Zakat and
10 Alms Committee, Orphan Sponsorship Program, Holy Land
11 Foundation for Relief and Development. That is the poster
12 above this man's head.

13 Go ahead.

14 That is what they are about. You know, there are
15 children that need things. No doubt about it. But that is
16 not what they need, and that is what these men are about.
17 They have to keep that hate alive. They have to keep that
18 message alive. They can't allow the prospect of peace to grow
19 and succeed, and that is what this case is about.

20 The evidence in this case is overwhelming to show that
21 these individuals were a part of an organization that was set
22 up by a terrorist group and intended to raise money in this
23 country for that group, and that the purpose of that group was
24 to continue the goals of that group--the destruction of
25 another country and the destruction of another people. And

1 the evidence in this case shows that beyond any reasonable
2 doubt.

3 I ask you to tell these gentlemen that you know now what
4 they have done, you have seen the evidence, and that you can
5 now tell them that you have seen and concluded that they have
6 violated these laws and that they are guilty of these crimes.

7 Thank you very much for your patience.

8 THE COURT: Thank you.

9 Members of the jury, in light of the hour, what I am
10 going to ask that you do if you will step back into the jury
11 room, select your foreperson and then go ahead and go home for
12 the day. We are going to have to get the exhibits ready for
13 you make copies of the charge copies of the indictment we will
14 have all of that ready in the morning so if you will go back
15 in here select your foreperson leave for the day and start
16 back at 9:00 in the morning and we will have everything ready
17 for you to begin your deliberations. Please recall the
18 instructions very important now that you continue to follow
19 and abide by those instructions.

20 (Whereupon, the jury left the courtroom.)

21 THE COURT: We are in recess. Let me ask counsel to
22 approach the bench.

23 (The following was had at the bench.)

24 THE COURT: My plan, we have the three alternates.
25 Just get them back. I have told the bailiff to separate them

1 and take them into a room. I was just going to go ahead and
2 meet with them, or I can bring them back into the courtroom
3 and tell them although they are free to go they are under the
4 instructions not to talk about the case, not to read anything
5 about it, so I am open --

6 MR. DRATEL: I think you can do that, Your Honor.

7 THE COURT: I was going to point out -- of course we
8 had the one sick yesterday. We never know what is going to
9 happen, so just don't do anything or we don't know how long
10 the deliberations are going to go. Just make sure you don't
11 read anything about it or have anything to do with anybody.

12 MR. DRATEL: They are still under the same
13 prohibitions?

14 THE COURT: Yes. I will do that with those three
15 and then let them go.

16 MS. MORENO: We have two applications to make, Your
17 Honor.

18 MR. DRATEL: The first is for mistrial based on Mr.
19 Jacks' statement during his summation that Mr. Abington did
20 not receive intelligence briefings. I can't go further than
21 that. I think that part of our conference here should be
22 sealed as well with that application, but now I can't go
23 further. It totally violates what we had done before, and we
24 had a specific discussion about that. That is all I can
25 really say.

1 THE COURT: Do you want to -- What is the other one?

2 MS. MORENO: And move for a mistrial, Your Honor, on
3 Mr. Jacks' argument going specifically back into the
4 Marzook/Elashi payments on the grounds of double jeopardy.

5 MS. HOLLANDER: And I would like to move for a
6 mistrial on the argument, which I think is an improper
7 argument, that these jurors should be afraid of these people
8 because they are going to set up sharia law and opposed to
9 peace, and that they are going to kill Jews or hate Jews.
10 That is an improper argument. It is similar to the kinds of
11 arguments when you say, "If you put this person back on the
12 street it will be a danger."

13 Those arguments have been, and I can get the Court the
14 case law, at any point have been held by every court to be
15 improper, and I move for a mistrial on those grounds.

16 MS. CADEDDU: On behalf of Mr. Abdulqader, I join in
17 those applications.

18 MR. DRATEL: I join for Mr. El-Mezain.

19 But with respect to the first application, I just would
20 say that an instruction is impossible because of the nature of
21 what this whole process has been, so an instruction to the
22 jury is impossible.

23 I also want to renew my collateral estoppel motion in
24 that Mr. Jacks said the Defendants, and he did not distinguish
25 -- he did on the money laundering, but on the two conspiracies

1 he said the Defendants here conspired to violate the SDT and
2 then the FDO.

3 MS. MORENO: And I renew our double jeopardy motions
4 on behalf of Mr. Elashi and join on behalf of Mr. Elashi on
5 every other motions to the court.

6 MR. WESTFALL: On behalf of Odeh also.

7 THE COURT: Did we cover everybody? I think
8 everybody is here.

9 Do you want to address that first application?

10 MR. JACKS: I don't believe I said anything even
11 close to that, so I don't think I came anywhere near that
12 issue.

13 MS. HOLLANDER: He said he did not receive
14 intelligence information, and that is the issue, Your Honor.

15 THE COURT: As I took it, he mentioned that there
16 was an intelligence investigation going on, I guess the FISA,
17 and so I think -- That is what I took it that he was getting
18 at; and then the FBI, the criminal investigation, that he
19 didn't get briefed on that. That is the way I took it.

20 MR. DRATEL: The first remark, though, was he did
21 not receive intelligence information.

22 MS. HOLLANDER: That is a quote.

23 MR. DRATEL: Whatever is in the record is in the
24 record, but that is the way I heard it.

25 THE COURT: Okay. The motions for mistrial are

1 denied.

2 MS. MORENO: What was the direction of the Court,
3 Your Honor, with respect to where you need us to be and how
4 long do we have, Your Honor?

5 THE COURT: Now that you are here, what are you
6 planning? You are the one most concerned. Usually -- Of
7 course you can go back to your office. You are here. As long
8 as we are not more than 15 -- You can certainly go back to the
9 hotel.

10 MS. HOLLANDER: There is a request from the
11 Defendants that if there is a verdict, or lack of a verdict,
12 but something, that they have an hour to gather their families
13 before taking a verdict, as opposed to questions, Your Honor.

14 MS. MORENO: Some of these families, Your Honor,
15 live in Richardson and Plano.

16 THE COURT: I am just going to have to wait and see.
17 If it is toward the end of the day, I don't know that I am
18 going to want to do that, frankly. You know, we will do what
19 we can, but I am not committing to that. It is just going to
20 have to depend on the circumstances.

21 MS. HOLLANDER: So I assume you say 15 minutes.

22 THE COURT: Yes, 15 to 20 minutes is usually my rule
23 of thumb.

24 MS. HOLLANDER: So I think we will tell your clients
25 in terms of questions or anything else to --

1 THE COURT: I don't need them here for questions.
2 If you all want them here, you can have them. They aren't
3 usually going to be at any meetings that I have with lawyers.

4 MS. HOLLANDER: But you will call the jury in to
5 answer their questions.

6 THE COURT: Maybe. I don't always do that.
7 Sometimes I do it in writing. Typically my practice is I will
8 have a question, show it to the lawyers, and then we will
9 discuss and come up with a response, and typically I will do
10 it in writing. And then only if I need to bring them into the
11 courtroom --

12 MS. HOLLANDER: Of course, if they want to come and
13 hear videos or something, then they will have to come into the
14 courtroom.

15 THE COURT: We are still working on that. Are they
16 going to get the videos back there?

17 MR. JONAS: They will get the disks, yes.

18 THE COURT: I think we are going to work with them
19 and see if they want to have their own equipment. I don't
20 think we need to bring them in here if we can avoid that,
21 because we don't need to know what they are doing all the
22 time. That is their business.

23 MS. HOLLANDER: I am just trying to figure out how
24 far way the clients can be.

25 THE COURT: I don't want them very far away. Not

1 more than 15 minutes.

2 MS. MORENO: You will have Mr. Elashi transported
3 every morning?

4 THE COURT: He will be here in the holding cell.

5 MS. MORENO: Every morning?

6 THE COURT: Yes, until we are done. He needs to be
7 here for the verdict, of course, so he will have to be here.

8 MS. MORENO: Every day?

9 THE COURT: Yes.

10 MS. HOLLANDER: So they will probably just stay at a
11 room at the hotel or some place. That is what I needed to
12 know.

13 I have two other questions. Do you know whether they are
14 going to deliberate on Friday, or you leave that up to them?

15 THE COURT: I will leave that up to them. My guess
16 is they will.

17 MS. HOLLANDER: But not over the weekend.

18 THE COURT: Not over the weekend. Generally what --
19 I will get the bailiff to tell them, you know, unless -- that
20 usually there is no reason to deliberate late in the day if
21 they are going to come back the next day; just try to have
22 pretty much a normal working day.

23 MS. HOLLANDER: So like 5:00 or 5:30. We can plan
24 to go home over the weekend.

25 THE COURT: And we can ask them Thursday -- When

1 would you need to know about Friday? When would you like to
2 know? Tomorrow?

3 MS. HOLLANDER: Tomorrow, because if they are not
4 going to deliberate Friday, we can leave Thursday night.

5 THE COURT: I don't know if they will know that
6 tomorrow. My experience if they think they can reach a
7 verdict, and they may not know that, they will work Friday so
8 they don't have to come back next week.

9 MS. HOLLANDER: Maybe we can just ask them, because
10 maybe some of them have made plans or something.

11 THE COURT: I will have the bailiff ask them
12 tomorrow maybe towards the end of the day what they are
13 thinking about Friday.

14 MS. HOLLANDER: And if Shawn can stick around in
15 case we have anymore questions about the exhibits for a little
16 while.

17 THE COURT: Yes. You need to take care of that and
18 get --

19 MS. HOLLANDER: We are close.

20 THE COURT: We would like everything in there for
21 them to go by 9:00 in the morning.

22 MS. HOLLANDER: We met for a couple of hours last
23 night and we are close. It don't think it will take too long.

24 MR. JONAS: Do you want the documents delivered
25 tonight to the jury room?

1 THE COURT: Probably so. It might be good -- Either
2 that, or get here say by 8:30 and we can deliver them. I
3 think that is right. When they come in in the morning, what
4 we are going to do is just have them gather on the first floor
5 and then just bring them up in a group.

6 MS. HOLLANDER: So even if they are gone, we can
7 just wheel the exhibits in there.

8 THE COURT: We can have the bailiff --

9 MS. HOLLANDER: That is what I mean.

10 MR. JONAS: Are they going to deliberate upstairs?

11 THE COURT: We are still debating that. I am
12 thinking of maybe moving them upstairs.

13 MS. HOLLANDER: So you will let us know.

14 THE COURT: We will take them up. What I don't
15 want, if we move them upstairs I don't want anybody knowing
16 that because I don't want anybody up there on the 16th floor
17 other than lawyers and jurors. So I don't want any family
18 members or spectators tripping up there trying to mingle with
19 the jury. When they take a break, they have the floor to
20 themselves and nobody around, and just have everybody waiting
21 down here.

22 If we have questions, we will call you and then just come
23 on up to the 16th floor. We will have those in my conference
24 room. We will discuss that in my conference room.

25 MS. HOLLANDER: If you will let us know when we are

1 finished with the exhibits where you want us to take them.

2 THE COURT: What is your situation?

3 MR. WESTFALL: Well, if you need me to be here
4 within a 15-minute recall, of course I am happy to spend my
5 days in Dallas.

6 THE COURT: How far away are you?

7 MR. WESTFALL: Depending on the traffic, it might
8 take 45 minutes to get here. It might take sometimes 30
9 minutes.

10 THE COURT: Okay. What about like questions? Do
11 you want to be here to do that, or do you just want to deal
12 with that on the phone and let the others be here for you?
13 How do you want to deal with that? Or do you want to think
14 about it?

15 MR. WESTFALL: Presumptively I probably need to be
16 here, because without me Odeh is kind of unrepresented.

17 THE COURT: We can get you the questions and you can
18 participate over the phone if you want to do that. I don't
19 want to have to wait, obviously, for you to come that far
20 unless you will be here. But if you are going to stick around
21 here, you will be like everybody else.

22 MR. WESTFALL: If I end up in Tarrant County, some
23 other judge might get ahold of me.

24 THE COURT: That is true. Maybe you should stay
25 here and just have you here.

1 MR. WESTFALL: You said something earlier that kind
2 of caught my attention, and that is that you are now inclined
3 to give equipment to the jury so they can watch the videos
4 themselves.

5 THE COURT: I haven't talked to them yet, but we are
6 talking to the Systems folks to see whether that he can set
7 something up there to watch it.

8 MR. WESTFALL: My stuff requires a computer and
9 QuickTime to be on the computer. I do have the original DVDs,
10 they just have sound on them, and so that would need to be
11 re-recorded without sound, which can be done. Just by 9:00
12 tomorrow morning I am not sure. So could that be substituted
13 in --

14 THE COURT: Yes.

15 MR. WESTFALL: Maybe day after tomorrow?

16 THE COURT: Yes. I expect it is going to take them
17 a while to go through the evidence.

18 MR. WESTFALL: I will just record the original DVDs
19 on new ones without sound, and we will be good to go.

20 THE COURT: Just be working on that, because I think
21 if they prefer and they think they can do it, we will try to
22 set something up for them, and that way we won't --

23 MR. WESTFALL: I will get it underway.

24 THE COURT: Anything else?

25 MS. HOLLANDER: I just have to tell them while we

1 are all here.

2 THE COURT: We will work on getting the exhibits
3 together, then.

4 MS. HOLLANDER: They are not ready, not quite ready.

5 THE COURT: All right. We are in recess then.

6 (Jury deliberates.)

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1 (11/12/08)

2 MR. JONAS: Per stipulation, Your Honor, I would
3 like read to the jury, upon agreement of the parties, the
4 following:

5 "As of the date of the Philadelphia meeting, the HLF has
6 been publicly named in a newspaper article as being associated
7 with Hamas."

8 THE COURT: Okay. And that is a stipulation that
9 the parties have agreed to, so you can accept that as an
10 established fact without hearing any additional evidence.

11 I guess for the record we should get -- Mr. Cline, that
12 is language you have agreed to. Correct?

13 MR. CLINE: Yes, Your Honor.

14 THE COURT: On behalf of all counsel and the
15 parties?

16 MR. CLINE: Yes, Your Honor.

17 MR. JONAS: Thank you, sir.

18 (Deliberations continue.)

19 (End of day.)
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1 (11/14/08)

2 THE COURT: We are down to the demonstrative notes.
3 Anything that you want to put on the record, feel free. Don't
4 get panicky. Go ahead.

5 MS. MORENO: Your Honor, I don't have it in front of
6 me, but I remember seeing it numerous times as well.

7 I think that to say this is Hamas leaders in the 1990s
8 is, of course, the Government's theory in the case. It is not
9 the Defense theory in this case, nor did we ever concede all
10 those men are the Hamas leaders.

11 We feel that it is argumentative. We feel that all those
12 photographs are already in evidence, and it is up to the jury
13 to decide whether each one of those men, indeed through the
14 evidence, have been proven to be a Hamas leader.

15 THE COURT: And I agree with that, and that is why I
16 think we go back with an instruction that the chart itself is
17 not evidence and they will have to rely on the evidence and
18 reach their own conclusions. But in terms of just getting the
19 names straight, keeping the names straight in a case that went
20 on for weeks with a lot of names and a lot of foreign names,
21 it is difficult for the jury. I think it has been confusing
22 to the jury in terms of trying to keep up with the various
23 names. I think that is one of the reasons they are asking for
24 it.

25 And we could send back an instruction telling them this

1 is not evidence of that; that they have to reach their own
2 conclusions based on other evidence in the case, and that this
3 is submitted in connection with that demonstrative instruction
4 as an aid, if it does aid them, but they have to rely on other
5 evidence in the case to reach their conclusions.

6 MR. DRATEL: Your Honor, since we are on the record
7 now, I would like to restate what I said before, which is had
8 we known they were going to go back, we could have countered
9 with our own demonstrative about contesting some of this
10 stuff, because there are some names on there that I
11 specifically contested in my summation. And there is actually
12 a case that I forgot to mention that goes -- it is not about
13 demonstratives, but it goes to the fairness that the Defense
14 didn't have the opportunity to put such evidence before the
15 jury.

16 THE COURT: And I disagree that you didn't have the
17 opportunity to put that evidence before the jury in the sense
18 you knew this was going to be a demonstrative. It was
19 repeatedly shown to the jury. I think you had every
20 opportunity to contest it, and I disagree that you didn't.

21 MR. DRATEL: What I meant is to give it to the jury
22 for deliberations; thinking that these were all demonstratives
23 and that they would not go back. There is -- But if we
24 thought they were going back to the jury, we very likely would
25 have taken a different view of what we would put in. The case

1 is *Steele versus United States*. It is 222 F.2d, 628, Fifth
2 Circuit 1955. And perhaps Ms. Duncan can put her cases on the
3 record as well, since we are now on the record.

4 MS. HOLLANDER: I have one other thing to add.

5 THE COURT: Feel free.

6 MS. HOLLANDER: While she is looking for those, Your
7 Honor, kind of in response to what you just said and what
8 Mr. Jonas said, they have pictures of all these people and
9 they have pictures with them with their names, so there is no
10 reason for them to have any confusion. In other words, they
11 may be confused, but this won't really do anything other than
12 give them the Government's theory of the case. They have the
13 name of the person, they have a picture that has the person's
14 picture and the name. Correct?

15 MR. JONAS: Correct.

16 MS. HOLLANDER: Their pictures all have their names
17 with their pictures. Since they have all those, all this is
18 doing is presenting the Government's view of the case, which
19 is why this was a demonstrative and why we object to it,
20 another reason why we object.

21 THE COURT: And I disagree that they don't have any
22 reason to be confused. With the kind of case, the evidence,
23 foreign names, a lot of names and all being foreign names,
24 they have every reason to be confused, and I think that is one
25 of the reasons they are asking for this. They are asking for

1 some help to try to keep the names straight.

2 And that is the Government's theory, but we can tell them
3 that it is not evidence in and of itself; that they have to
4 make conclusions about the case from the evidence in the case,
5 not from this. But they have specifically asked for it.

6 Yes?

7 MR. WESTFALL: Your Honor, just for purposes of the
8 record, we are all going to adopt each other's objections,
9 what we say here.

10 THE COURT: Yes.

11 MR. WESTFALL: And also I would like to just say the
12 objection specifically would be under due process right to a
13 fair trial. Whether or not even Sheikh Yassin is Hamas is an
14 issue the jury is going to have to resolve. I mean, we didn't
15 fight against that but we didn't stipulate to it either.
16 Whether any of these guys is Hamas is an issue that the jury
17 is supposed to --

18 THE COURT: And I think that a limiting instruction
19 will take care of that--that this is not evidence that they
20 can use to come to that conclusion, whatever conclusion they
21 come to. They will have to arrive at those conclusions from
22 the other evidence in the case, and that this is not evidence.

23 MR. WESTFALL: I am just for the record just trying
24 to state my objections.

25 THE COURT: And that is my response. I wanted that

1 on the record, too.

2 MS. DUNCAN: Your Honor, I also would just register
3 a specific objection on behalf of Mr. Abu Baker. With the
4 inclusion of his brother on this chart given, we have heard
5 very little about him and yet he is included in this chart
6 among people we have heard a lot about and heard a lot about
7 being the leader of Hamas in the 1909s. So we would object
8 under 403, and all the bases Mr. Westfall argued, specifically
9 to Mr. Abu Baker.

10 THE COURT: What about your thoughts?

11 MR. JONAS: I agree with Your Honor. I mean, it is
12 an aid.

13 THE COURT: The jury has asked for it, so they want
14 some help. And as I stated already, given the kind of case
15 with all the names and things, I think it is understandable
16 that they would need some help.

17 MS. DUNCAN: I wanted to put on the record the cites
18 that we had, which was *U.S. v. Taylor*, 210 F.3d, 311, Fifth
19 Circuit 2000 case, *United States versus Buck*, which is 324
20 F.3d, 786, Fifth Circuit 2003 case, and *U.S. v. Harms*, which
21 442 F.3d, 367, Fifth Circuit 2006.

22 And with respect to both *Taylor* and *Buck*, we would just
23 note that in those two cases that the issue of sending the
24 demonstratives back to the jury is one of error, it is just
25 whether it was harmless, but sending them was in fact error

1 and then you went into the balancing.

2 THE COURT: I understand that, but I have
3 already -- I don't know that that was on the record. I think
4 this document Demonstrative No. 17 also properly comes in
5 under 1006. It may not have been offered that way, but based
6 on the language in *Taylor*, that even though the specific
7 language of 1006 relates to voluminous documents, that they
8 have allowed -- the Circuit notes that they allowed this kind
9 of summarization of other testimony when it is in a complex
10 conspiracy, and this case fits that definition and this
11 particular issue, with so many names and the foreign names,
12 and it is confusing, so I think that clearly falls within
13 that.

14 MR. WESTFALL: Just for the record, Your Honor -- I
15 am sorry. Did I interrupt you?

16 THE COURT: No, I was finished.

17 MR. WESTFALL: Just for the record, we object to
18 converting that to a 1006 exhibit.

19 MS. HOLLANDER: As we do.

20 MR. WESTFALL: It was offered and admitted as a
21 demonstrative, and that is the way we addressed it in the
22 record, so we object to that.

23 MS. MORENO: Also for purposes of the record, Your
24 Honor, we are assuming you will make these juror notes part of
25 the record, but to be specific with respect to the particular

1 note that was sent out asking for Demonstratives 9, 12, 13,
2 17, and 30, we object to all of those demonstratives going
3 back for all the reasons cited in the case law and all the
4 objections cited, Your Honor.

5 THE COURT: And the objections are sustained except
6 with respect to No. 17.

7 MR. DRATEL: Do you want us to wait around?

8 THE COURT: Stick around and let me draft some
9 response to this.

10 We have had two questions, one Wednesday and one
11 yesterday, we have had two questions come out that we weren't
12 on the record, but we met with counsel for all the parties and
13 there was agreement as to what was to be stated the jury, so
14 written responses were made to the jury after counsel was
15 given the opportunity to review those responses. And of
16 course the questions by the jury as well as the written
17 responses will be made part of the record.

18 But I wanted to put on the record that counsel had been
19 given the opportunity to review the questions and the
20 responses before they were sent to the jury, counsel for all
21 parties, and there was agreement on that.

22 Give me a few minutes and we will come up with something.

23 (Pause in proceedings.)

24 THE COURT: On the record. We with respect to the
25 two questions that the jury has sent out, we have drafted

1 answers.

2 And we will start with the Government. Any objections to
3 either one of these responses?

4 MR. JONAS: Mr. Jacks had added some additional
5 language to the shorter one regarding the two individuals, and
6 I don't know with regard to the second one regarding the
7 demonstratives. I don't think the Government has any
8 objection.

9 MR. JACKS: That is fine.

10 THE COURT: So no objection to either of the
11 proposed responses from the Government?

12 MR. JONAS: No.

13 THE COURT: And what about from the Defense?

14 MR. DRATEL: That is an accurate statement.

15 THE COURT: I didn't want to put notes. I think you
16 mentioned about notes, but notes are not evidence so I didn't
17 want to put in notes.

18 MR. DRATEL: To only use them for their own
19 recollection. We don't want to expand that.

20 MR. WESTFALL: Your Honor, as to the demonstrative
21 one, I can speak for everyone and say we don't object to the
22 instruction, but we do preserve our objection to the
23 demonstratives going back.

24 THE COURT: All right. We will get this back to the
25 jury. They are on their lunch break, so you can take your

1 lunch break.

2 I think I stated this, but I wasn't sure we were on the
3 record, that there is evidence in the record supporting the
4 statements that are contained in that Demonstrative No. 17.
5 That was exhibited before a number of witnesses and they
6 testified to it, so it is supported by evidence in the case.
7 I wanted to make sure it is on the record. The record will
8 reflect it anyway, I think.

9 (Deliberations continue.)

10 (End of day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts

06/28/2009

10 _____DATE_____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
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